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REPORT OF THE OPEN-ENDED WORKING GROUP ON THE QUESTION OF EQUITABLE REPRESENTATION ON AND INCREASE IN THE MEMBERSHIP OF THE SECURITY COUNCIL AND OTHER MATTERS RELATED TO THE SECURITY COUNCIL*

Addendum

* The present document is a mimeographed version of annexes III to XVIII to the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council. The final report will be issued subsequently as Official Records of the General Assembly, Fiftieth Session, Supplement No. 47 (A/50/47/Rev.1).

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ANNEX III

WORKING METHODS AND PROCEDURES OF THE SECURITY COUNCIL

Non-paper by the Bureau*

The first part of this paper is a factual description of the measures already adopted by the Security Council to enhance its working methods and procedures (section I). The paper then lists the proposals made in the Open-Ended Working Group to improve further the measures and practices already adopted by the Security Council (section II). In section III, the paper describes additional proposals made in the Open-Ended Working Group to enhance further the working methods and procedures of the Security Council.

Proposed measures in sections II and III are not exhaustive and will be further revised and updated as discussions proceed.

I. MEASURES ALREADY ADOPTED BY THE SECURITY COUNCIL TO ENHANCE ITS WORKING METHODS AND PROCEDURES

Since June 1993, the Security Council has adopted a number of measures to improve its documentation, working methods and procedures. These measures include:

1. Reports of the Security Council to the General Assembly

(a) The Security Council should take all necessary measures to ensure the timely submission of its report to the General Assembly (S/26015, dated 30 June 1993).

(b) The draft annual report of the Security Council to the General Assembly should no longer be issued as a confidential document; it should be a

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* Previously issued as A/AC.247/1996/CRP.4.

document with a "limited distribution" designation, as is the common practice in other bodies of the United Nations (ibid.).

(c) The draft annual report of the Security Council to the General Assembly should be adopted at a public meeting of the Security Council. At that meeting, the document containing the draft report should be made available to interested delegations (ibid.).

2. Tentative forecast of the programme of work of the Security Council

(a) The tentative forecast of the programme of work of the Security Council for each month should be made available to all Members States, for information. This should be done once the Secretariat has presented the forecast to the President of the Council and it has been transmitted to the members of the Council (S/26176, dated 27 July 1993).

(b) The monthly tentative forecast of the work of the Council made available to Member States will in future include an indication of the expected schedule of such meetings for the month (S/PRST/1994/62, dated 4 November 1994).

(c) In the context of their review of the tentative forecast, the members of the Council will examine this schedule and communicate any suggested changes or proposals as to the timing of meetings to the Secretariat (ibid.).

3. Documents and agenda of the Security Council

(a) The provisional agenda for formal meetings of the Security Council should be included in the Journal of the United Nations, provided that it has been approved in informal consultations (S/26015, dated 30 June 1993).

(b) Effective 1 January 1994, the documents of the Council should be published in an annual series. Accordingly, the first Security Council document for 1994 should be numbered "S/1994/1" (S/26389, dated 31 August 1993).

(c) On the understanding that the verbatim record of each meeting of the Security Council will continue to be made available as provided in the provisional rules of procedure of the Council, and subject to final agreement by the Council on the basis of a further report from the Secretariat in early December 1993, as of 1 January 1994 the verbatim records are to be issued in final form only (ibid.).

(d) As part of the efforts to improve the documentation of the Security Council, the members of the Council have reviewed the list of matters of which the Security Council is seized. The Council has decided to remove 80 items from the list (S/26812, dated 29 November 1993).

(e) Effective 1 March 1994, draft resolutions in blue, that is, in provisional form, will be made available for collection by non-members of the Council at the time of consultations of the whole of the Council. Draft resolutions published in blue late at night will be made available for collection by non-members of the Council the following day (S/1994/230, dated 28 February 1994).

(f) As part of the efforts to improve the documentation of the Security Council, the members of the Council have again reviewed the list of matters of which the Security Council is seized. The Council has decided to remove 25 items from the list (S/1994/896, dated 28 July 1994).

(g) As part of the efforts to improve the documentation of the Security Council, the members of the Council have again reviewed the list of matters of which the Security Council is seized. The Council has decided to remove the following matters from the list: items Nos. 3, 4, 57 and 125 (S/1996/55, dated 24 January 1996).

4. Consultations with troop-contributing countries

4.1 Arrangements adopted between 3 May 1994 and 28 March 1996

(a) The Security Council is conscious of the need for enhanced consultations and exchange of information with troop-contributing countries regarding peace-keeping operations, including their planning, management and coordination, particularly when significant extensions in an operation's mandate are in prospect. Such consultations can take a variety of forms involving Member States, troop-contributing countries, members of the Security Council and the Secretariat (S/PRST/1994/22, dated 3 May 1994).

(b) The Security Council believes that when major events occur regarding peace-keeping operations, including decisions to change or extend a mandate, there is a particular need for members of the Council to seek to exchange views with troop contributors, including by way of informal communications between the President of the Council or its members and troop contributors (ibid.).

(c) The recent practice of the Secretariat of convening meetings of troop-contributors, in the presence, as appropriate, of Council members, is welcome and should be developed. The Council also encourages the Secretariat to convene regular meetings for troop contributors and Council members to hear reports from Special Representatives of the Secretary-General or Force Commanders and, as appropriate, to make situation reports on peace-keeping operations available at frequent and regular intervals (ibid.).

(d) Meetings should be held between members of the Security Council, troop-contributing countries and the Secretariat to facilitate the exchange of information and views in good time before the Council takes decisions on the extension or termination of, or significant changes in, the mandate of a particular peace-keeping operation. Such meetings would be chaired jointly by the Presidency of the Council and a representative of the Secretariat nominated by the Secretary-General (S/PRST/1994/62, dated 4 November 1994).

(e) The time and venue of each meeting with members of the Security Council and troop contributors to a peace-keeping operation should, where possible, appear in advance in the Journal of the United Nations (ibid.).

(f) The President of the Security Council will, in the course of informal consultations with members of the Council, summarize the views expressed by participants at each meeting with troop contributors (ibid.).

(g) The Security Council recalls that the arrangements for consultations with troop-contributing countries described in document S/PRST/1994/62 are not exhaustive. Consultations may take a variety of forms, including informal communication between the Council President or its members and troop-contributing countries and, as appropriate, with other countries especially affected, for example countries from the region concerned (ibid.).

(h) Ad hoc meetings chaired jointly by the Presidency of the Security Council and a representative of the Secretariat nominated by the Secretary-General may be convened in the event of unforeseen developments in a particular peace-keeping operation which could require action by the Council (ibid.).

(i) Ad hoc meetings of the Security Council will be in addition to those convened and chaired solely by the Secretariat for troop contributors to meet with special representatives of the Secretary-General or force commanders or to discuss operational matters concerning particular peace-keeping operations, to which members of the Security Council will also be invited (ibid.).

(j) An informal paper, including topics to be covered and drawing attention to relevant background documentation, will be circulated by the Secretariat to the participants well in advance of each of the various meetings referred to above (ibid.).

4.2 Arrangements adopted on 28 March 1996 (S/PRST/1996/13)

(a) Meetings will be held as a matter of course between members of the Council, troop-contributing countries and the Secretariat for the purpose of consultations and the exchange of information and views; the meetings will be chaired by the Presidency of the Council supported by a representative of the Secretariat.

(b) The meetings will be held as soon as practicable and in good time before the Council takes decisions on the extension or termination of, or significant changes in, the mandate of a particular peace-keeping operation.

(c) When the Council considers establishing a new peace-keeping operation, meetings will, unless it proves to be impracticable, be held with any prospective troop contributors who have already been approached by the Secretariat and who have indicated that they may be willing to contribute to the operation.

(d) The President of the Council will, in the course of informal consultations of members of the Council, report the views expressed by participants at each meeting with troop-contributing or prospective troop-contributing countries.

(e) The existing practice of inviting to these meetings Member States which make special contributions to peace-keeping operations other than troops - that is, contributors to trust funds, logistics and equipment - will continue.

(f) The monthly tentative forecast of work of the Council made available to Member States will include an indication of the expected schedule of such meetings for the month.

(g) Ad hoc meetings may be convened in the event of unforeseen developments in a particular peace-keeping operation which could require action by the Council.

(h) These meetings will be in addition to those convened and chaired by the Secretariat for troop contributors to meet with Special Representatives of the Secretary-General or Force Commanders, or to discuss operational matters concerning particular peace-keeping operations, to which members of the Security Council will also be invited.

(i) Background information and an agenda will be circulated by the Secretariat to the participants well in advance of each of the various meetings referred to above; members of the Council may also circulate information as appropriate.

(j) Interpretation services in all the official languages of the Organization will continue to be available; translation of written documents will continue to be available, if possible in advance of the meetings.

(k) The time and venue of each meeting should, where possible, appear in advance in the Journal of the United Nations.

(l) The Council will append to its annual report to the General Assembly information about these meetings.

(m) The Security Council recalls that the arrangements described above are not exhaustive. They do not preclude consultations in a variety of forms, including informal communication between the Council President or its members and troop-contributing countries and, as appropriate, with other countries especially affected, for example, countries from the region concerned.

5. Open meetings of the Security Council

There is widespread support for greater recourse to open meetings of the Council and a clear will on the part of the members of the Council to respond to this. It is therefore the intention of the Council, as part of its efforts to improve the flow of information and the exchange of ideas between members of the Council and other United Nations Member States, that there should be an increased recourse to open meetings, in particular at an early stage in its consideration of a subject. The Council will decide on a case-by-case basis when to schedule public meetings of this sort. The Security Council's working group on documentation and procedure will examine this question further in the light of the views expressed and submit a report without delay (S/PRST/1994/81, dated 16 December 1994).

6. Sanctions Committees

(a) The practice of issuing press releases after meetings of the Committee should be increased (S/1995/234, dated 29 March 1995).

(b) The Status of Communications listed under the "No Objection" procedure prepared by the Secretariat should be made available to any delegation which wishes to have a copy (ibid.).

(c) A list of all other decisions by each active Committee should be prepared by the Secretariat, on a regular basis, and be made available to any delegation which requests it (ibid.).

(d) The annual report of the Security Council to the General Assembly should contain, in the Introduction, more information about each Committee than it does at present (ibid.).

(e) An annual report to the Security Council should be prepared by each Committee, providing a concise indication of each Committee's activities (ibid.).

(f) An effort should be made to expedite the preparation of the summary records of each Committee (ibid.).

(g) The practice of hearing comments by States and organizations concerned during closed meetings of the Sanctions Committees on issues arising from implementation of sanctions regimes imposed by the Security Council should be continued while respecting the existing procedures followed by such Committees (S/1995/438, dated 31 May 1995).

(h) The Chairman of each Committee should give an oral briefing to interested Members of the United Nations after each meeting, in the same way as the President of the Security Council now gives oral briefings following consultations of Council members (S/1996/54, dated 24 January 1996).

(i) The Chairman of each Committee should be asked to bring to the attention of its members and of the Members of the United Nations the improvements in procedures of the Committees which were agreed to by the members of the Council on 29 March and 31 May 1995 (see S/1995/234 and S/1995/438) (S/1996/54).

7. Resources

By a letter dated 31 May 1995, the President of the Security Council transmitted a letter to the Secretary-General concerning the resources and staffing necessary for the operations of the Council (S/1995/440, annex, dated 31 May 1995).

8. Briefings

A practice has evolved since November 1994 whereby on days on which informal consultations are held either the President of the Security Council or

a member of the delegation of the Presidency will brief the delegations of the non-members of the Security Council on the broad outlines of the progress of the Council's consultations at a time and place announced in the Journal of the United Nations.

II. PROPOSALS MADE IN THE OPEN-ENDED WORKING GROUP TO ENHANCE FURTHER THE MEASURES AND PRACTICES ALREADY ADOPTED BY THE SECURITY COUNCIL WITH THE PURPOSE OF IMPROVING ITS WORKING METHODS AND PROCEDURES

Following are proposals made in the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council on the enhancement of measures and practices already adopted by the Security Council with the purpose of improving its working methods and procedures:

1. General proposals

(a) The measures taken and practices adopted should be fully implemented.

(b) The measures taken and practices adopted should be formalized and made binding for each Presidency of the Security Council as appropriate.

(c) The measures taken by the Security Council to enhance its working methods and procedures should be made permanent by institutionalizing them in order to ensure their systematic implementation.

2. Reports of the Security Council to the General Assembly

The provisions of General Assembly resolution 48/264 of 29 July 1994 on the submission of the reports of the Security Council to the General Assembly should be fully implemented.

3. Tentative forecast of the programme of work of the Security Council

The provision of the tentative monthly work programme should be institutionalized and it should include, as appropriate, the nature or type of action that might be considered during the month.

4. Documents and agenda of the Security Council

The annotated agenda and expected action to be taken at formal Council meetings should be reflected in the Journal of the United Nations.

5. Consultations with troop-contributing countries

(a) Two sets of consultations are required: one on policy and mandates and one on operational aspects.

(b) The Presidency of the Security Council should assume the chairmanship of consultations with troop-contributing countries on issues of policy and mandates.

(c) The Secretariat should assume the chairmanship of consultations with troop-contributing countries on operational questions.

(d) Potential troop contributors should be included in the consultations in the preparation phase of each operation as well as when the mandates of the operations are extended.

(e) Consultations with troop-contributing countries, including potential troop contributors, should be formalized.

(f) The host country where a peace-keeping operation is taking place should also be present in consultations.

(g) If possible, all Council members should be present at the meetings with troop-contributing countries.

6. Open meetings of the Security Council and orientation debates

(a) The Security Council should hold more open, formal meetings or reach a more reasonable balance between open, formal meetings and informal consultations.

(b) Orientation debates should be resorted to more frequently, preferably on a regular basis when the Security Council takes up a new question or begins its consideration of an important matter.

(c) Open formal meetings should be held at the earliest stage possible before decisions on peace-keeping operations are made, so that the Security Council can take into account the views of Member States.

7. Briefings

Informal briefings by the Presidency of the Security Council on the current work of the Council for the Members States which are not members of the Council should be formalized or institutionalized and not left to the discretion of each Presidency.

III. ADDITIONAL PROPOSALS MADE IN THE OPEN-ENDED WORKING GROUP TO ENHANCE FURTHER THE WORKING METHODS AND PROCEDURES OF THE SECURITY COUNCIL

Following are additional proposals made in the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council to enhance further the working methods and procedures of the Security Council:

1. Reports of the Security Council to the General Assembly

(a) The format and contents of the reports of the Security Council to the General Assembly should be reconsidered.

(b) The reports of the Security Council to the General Assembly should be more analytical in nature.

(c) The Security Council should submit reports to the General Assembly more frequently, for example, every three months.

(d) Progress made in the implementation of reform measures should also be included in the reports of the Security Council to the General Assembly.

(e) The General Assembly should engage in an in-depth discussion of the report of the Security Council and make recommendations to the Security Council. The General Assembly could establish a working group for this purpose.

(f) Reports of the Security Council to the General Assembly should also contain records of the informal meetings of the Security Council.

2. Security Council documents

The Security Council should publish a monthly bulletin containing the positions of the Security Council on matters under its consideration.

3. Sanctions Committees

(a) Meetings of the Sanctions Committees should be open to all States Members of the United Nations.

(b) Records of meetings of the Sanctions Committees should be published (for general distribution).

(c) The procedures of the sanctions regimes should be revised and updated.

4. Briefings

(a) A method to brief the General Assembly on a regular basis on matters under the consideration of the Security Council should be developed.

(b) There should be a "comprehensive conceptual approach" to briefings and consultations.

(c) Briefings should cover a greater amount of information and not be limited to a list of topics.

5. Subsidiary organs

Subsidiary organs, ad hoc or otherwise, might be established by the Security Council, in accordance with Article 29 of the Charter, to monitor

developments of the most important peace-keeping operations with the participation of troop-contributing Member States.

6. Relationship between the Security Council and the General Assembly and other principal organs of the United Nations

(a) As far as the relationship between the Security Council and the General Assembly is concerned, the relevant Articles of the Charter, i.e. Articles 10, 11, 12 and 14, and other relevant provisions should be more strictly adhered to.

(b) Some subsidiary organs of the General Assembly should be established in accordance with Article 22 of the Charter in order to consider urgent issues (affecting international peace and security).

(c) Regular institutionalized consultations between the President of the Security Council and the President of the General Assembly should be arranged.

(d) An effective mechanism could be established for alerting members of the General Assembly of emergency and/or weekend meetings of the Security Council.

(e) There should be closer working relationship between the Security Council and the International Court of Justice in accordance with the relevant provisions of the Charter; for instance, the Security Council may seek the judicial opinion of the International Court of Justice on controversial matters with legal implications.

(f) The Presidents of the Security Council and the General Assembly should play more active roles and the President of the General Assembly should be more involved in matters relating to the Security Council.

(g) The capacity of the Security Council or capability available for it to gather and analyze information should be further improved, also taking into consideration the role of the Secretariat and the Economic and Social Council.

7. Relationship between the Security Council and regional arrangements

(a) There should be an exchange of information and consultations between the Security Council and regional organizations at appropriate levels on a regular basis in accordance with Chapter VIII of the Charter.

(b) The consultations between the Presidents of the Security Council and the regional groups should be regularized.

8. Consultations with interested parties

(a) Wider consultations with interested delegations should be held. For instance, third countries affected by sanctions imposed on a country should also be consulted. In this respect, Article 50 of the Charter needs more attention.

(b) Informal meetings should be held between members of the Security Council and Members of the United Nations to exchange views regarding the implementation of different measures and other related matters.

(c) A new provision mandating the Security Council to inform and consult interested Member States on its work could be inserted in the Charter.

9. Participation of non-member States in the work of the Security Council

The application of Article 31 of the Charter of the United Nations should be extended to informal consultations of the Security Council.

10. Provisional rules of procedure of the Security Council

(a) The provisional rules of procedure of the Security Council should be reviewed in a comprehensive manner either to facilitate the amendment of specific provisions or to approve the removal of their designation as "provisional".

(b) The proposal by the Movement of Non-Aligned Countries on the provisional rules of procedure of the Security Council should be considered (see A/49/965, pp. 101-102).

ANNEX IV

UNITED NATIONS REFORMS

African common position*

Equitable representation on and increase in the membership of the Security Council

31. The increase in the membership of and equitable representation on the Security Council has become imperative because of the need to democratize the Council and make it more efficient and transparent. The democracy that is currently being preached at the national level should prevail in the international system. It is therefore necessary to review the composition and the decision-making process of the Council in line with the above principles, as well as the relationship between the Council and the General Assembly. In the implementation of these ideals, it is important to bear in mind the need for equitable geographical representation with the emphasis on an increase in the permanent membership for the benefit of developing countries, in particular Africa. Ultimately, with the progress in the democratization of the international system, permanent membership and the right of veto would be reviewed and all members of the Security Council would be elected according to the principle of equitable geographical representation in order to ensure their accountability to all the members of the United Nations, on whose behalf they assume the primary function of maintaining international peace and security in accordance with the provisions of the Charter.

32. The composition of the Security Council should be further democratized to reflect the current reality that has emerged with the end of the cold war, the increase in the number of States Members of the United Nations and the need to improve the Council's functioning, methods of work and relationship with States which are not members of the Security Council.

33. In view of the growing role of the Security Council in discharging its primary responsibility for the maintenance of international peace and security, conferred on it by the States Members of the United Nations, it is most important that the Council's work should reflect the idea that "in carrying out its duties under this responsibility the Security Council acts on [...] behalf" of the Member States, as stated in Article 24 of the Charter.

This can be achieved by the following steps, inter alia:

(a) The circulation of the agenda for informal consultations;

(b) Consultations with States which are not members of the Council and with the regional groupings and regional organizations concerned;

(c) Briefings of States which are not members of the Council on the outcome of informal consultations;

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* Extract from Organization of African Unity document NY/OAU/POL/84/94/Rev.2 of 29 September 1994. Also previously issued as A/AC.247/1996/CRP.6.

(d) An increase in the number of members of the Council, both permanent and non-permanent;

(e) The review and eventual elimination of the right of veto. Current efforts to limit the use of the veto, as stipulated in the Charter of the United Nations (Chapter VI), should continue to be encouraged as they reflect the consensus which is currently emerging in international relations. If the veto is to be maintained, Africa might request that the additional permanent members should be granted the same privileges as the five current permanent members of the Security Council. The number of vetoes required to block action should be increased.

34. Without prejudice to the fact that it should have a proportionate number of non-permanent seats on the Security Council, Africa should be allocated no fewer than two permanent seats with all the privileges attached thereto, as long as the institution of permanent membership remains in force. The permanent seats allocated to Africa will be assigned to countries on the decision of the Africans themselves, in accordance with a system of rotation based on the criteria of the Organization of African Unity currently in force and subsequent elements which might subsequently improve those criteria.

35. In principle, there will be a need for the periodic review of the structure and functioning of the Security Council in order to make it better able to respond more effectively to the new challenges arising from developments in international relations, especially with regard to international peace and security. In this connection, the Open-ended Working Group on the question of equitable representation on and increase in the membership of the Security Council, established pursuant to General Assembly resolution 48/26, constitutes the appropriate forum which could be transformed into a democratic instrument for debate and reflection on all aspects of the reform of the Security Council.

36. Eventually, the current permanent members should also be subject to nomination by their respective regions and should be elected by the General Assembly. Such a system of periodic elections of the permanent members of the Security Council would ultimately make the decisions of the Council less subject to the strictly national interests of various members.

37. Africa rejects both the concept of a third category of so-called "semi-permanent members" and the proposal for a pool of some 20 countries from which the actors would be recruited on a rational basis.

ANNEX V

PROPOSED AMENDMENTS TO THE CHARTER OF THE UNITED NATIONS

The question of the veto

Mexico: Working paper*

Mexico is convinced of the need to strengthen the role of the General Assembly, the international community's most representative body, in the decision-making process in the United Nations. It likewise believes that steps must be taken to restrict the use of the rule requiring unanimity among the five permanent members of the Security Council, also known as the "right of veto", to questions relating to the Council's primary responsibility, namely the maintenance of international peace and security.

Following are proposed amendments to the Charter of the United Nations which seek to achieve these objectives: 1/

Article 4

1. Membership in the United Nations is open to all other peace-loving States which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such State to membership in the United Nations will be effected by a decision of the General Assembly ~~upon the recommendation of the Security Council~~.

Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise

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* Previously issued as A/AC.247/1996/CRP.7.

of the rights and privileges of membership by the General Assembly ~~upon the recommendation of the Security Council~~. The exercise of these rights and privileges may be restored by ~~the Security Council~~ **the General Assembly**.

Article 6

A member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly ~~upon the recommendation of the Security Council~~.

Article 27

1. Each member of the Security Council shall have one vote.

2. Decisions of the Security Council on procedural matters **and on matters pertaining to Chapters VI, VIII and XII** shall be made by an affirmative vote of [nine] members.

3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of [nine] members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly ~~upon the recommendation of the Security Council~~. He shall be the chief administrative officer of the Organization.

Article 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations~~, including all the permanent members of the Security Council~~.

Article 109

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations ~~including all the permanent members of the Security Council~~.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council

Notes

1/ For greater clarify, those portions of the Articles which it is proposed to delete have been shown with a line through them, while proposed additions are shown in bold-face type. In addition, in paragraphs 2 and 3 of Article 27 and paragraph 1 of Article 109, the number of Security Council members required for the adoption of a decision has been placed in square brackets, since this figure will be determined by the number of members agreed upon by the Working Group in its deliberations.

ANNEX VI

WORKING METHODS AND PROCEDURES OF THE SECURITY COUNCIL

Argentina and New Zealand: working paper*

Our delegations are convinced that modernization of the Security Council, and the fulfilment of the mandate set out in General Assembly resolution 48/26 of 3 December 1993, cannot be accomplished by addressing issues of size and composition alone. Decision-making, including the working methods and procedures that lead to decisions, are of even greater importance and must be addressed regardless of the outcome of increasing the membership.

We believe that conclusions, based on the following ideas, should be formulated by the Working Group so that formal recommendations may be addressed to the Security Council by the General Assembly. In deference to the competence of the Security Council, these would only be expressed as recommendations. However, an understanding on the full implementation of such measures would have to form an integral part of any overall package relating to the modernization of the Council.

1. Daily briefings of the President of the Security Council to the general membership should be institutionalized by a formal decision of the Security Council.

2. The rules of procedure should allow any Member of the United Nations to request an urgent meeting of the Security Council in cases when the Member State feels there is a threat to international peace and security. The President of the Council should circulate such requests promptly as documents of the Council. The rules of procedure should require that, unless the Council decides otherwise, the President should convene a meeting of the Council to hear the Member in question.

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* Previously issued as A/AC.247/1996/CRP.8.

3. Consistent with Article 31 of the Charter of the United Nations, non-members of the Council should be permitted to participate in meetings of the informal consultations of the whole, whenever their interests are particularly affected. This should be institutionalized either by provision in the rules of procedure or by a formal decision of the Security Council.

4. Consistent with Article 32 of the Charter, non-members of the Council that are party to a dispute under consideration by the Security Council should be permitted to participate in an appropriate manner in the informal consultations of the Council relevant to the dispute. This should be institutionalized either by provision in the rules of procedure or by a formal decision of the Council.

5. The recommendations of the General Assembly in resolution 267 (III) of 14 April 1949 on what is to be considered an action of a procedural nature should be included in the rules of procedure, or otherwise formally approved.

6. Open formal meetings of the Security Council should be held more often. To this end, orientation debates should be the norm when the Council commences consideration of an issue. The rules of procedure or a formal Council decision should provide that such meetings be held unless the Council decides otherwise.

7. An effective mechanism, such as the establishment of a point of contact, should be established by the Secretariat for alerting all Member States that are not members of the Council of meetings and distributing the texts of draft resolutions when issued "in blue". At a minimum, the notice to all States should be sufficient for them to have a reasonable opportunity to exercise their rights under Articles 31 and 32 of the Charter.

8. The provision to non-members of the Security Council of the tentative forecast of the programme of work of the Council should be institutionalized and expanded, so that it highlights the action taken by the Council on the matters referred to in the previous month's forecast.

9. The annotated agenda and expected action to be taken at formal Council meetings should be included in the Journal of the United Nations.

10. Bearing in mind Articles 10, 11, 12 and 14 of the Charter, regular institutionalized consultations between the President of the Security Council and the President of the General Assembly should be arranged.

11. The President of the Security Council and the President of the General Assembly should play more active roles in facilitating the overall United Nations response to situations in which there is concurrent responsibility between the two organs.

ANNEX VII

THE QUESTION OF THE VETO

Egypt: working paper*

1. The Charter of the United Nations provides in Article 27 that the voting in the Security Council shall be as follows (emphasis added):

"1. Each member of the Security Council shall have one vote.

"2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.

"3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting."

2. The provisional rules of the Security Council also mention voting in rule 40, which reads:

"Voting in the Security Council shall be in accordance with the relevant articles of the Charter and of the Statute of the International Court of Justice."

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* Presented on 27 March 1996 on behalf of the Movement of Non-Aligned Countries. Previously issued as A/AC.247/1996/CRP.9.

3. It thus appears that there are no provisions in either the Charter of the United Nations or the provisional rules of procedure of the Security Council of any modalities and/or criteria for the use of the veto in decisions of the Security Council.

4. On 7 June 1945, the four sponsoring Governments (China, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Union of Soviet Socialist Republics) with France later subscribing to their position made a statement on the voting procedure in the Security Council. The statement was their view on the question on voting in the Security Council, whereby they stated that (emphasis added):

> "(a) The Yalta voting formula recognizes that the Security Council has two broad groups of functions:
>
> "(i) Decisions which involve the Security Council's taking direct measures in connection with settlement disputes will be governed by a qualified vote; 1/
>
> "(ii) Decisions which do not involve the taking of such measures, will be governed by a procedural vote; 2/
>
> "(b) The first group of functions will also include decisions and actions by the Security Council which may well have major political consequences and may even initiate a chain of events which might in the end require the Security Council under its responsibilities to invoke measures of enforcement under Chapter VII of the Charter;
>
> "(c) The 'veto' is not a new right ... It is a right which the permanent members of the Council of the League of Nations always had. [In the statement, the five countries argued that the Yalta formula substituted for the rule of complete unanimity of the Council of the League of Nations a system of qualified majority voting in the Security Council. Moreover, the Yalta formula would make the operation of the Council less subject to obstruction than was the case under the League of Nations rule of complete unanimity];
>
> "(d) It is not to be assumed that the permanent members would use their veto power willfully to obstruct the operation of the Security Council;
>
> "(e) The decision regarding the preliminary question as to whether or not a matter is procedural must be taken by a vote of seven members of the Security Council, including the concurring votes of the permanent members."

5. It is to be noted that this statement was seen as unacceptable to the rest of the members and was not incorporated in the Charter or attached as an annex or even referred to in the provisional rules of procedure of the Security Council.

6. In 1947, in its resolution 117 (II) of 21 November 1947, the General Assembly requested the Interim Committee of the General Assembly to consider the

problems of voting in the Security Council. The Committee first examined a list of possible decisions of the Council and classified them in categories according to the voting procedures applicable to each of them to determine those decisions which its members considered procedural within the meaning of paragraph 2 of Article 27 of the Charter. The conclusions reached on the decisions referred to as of a procedural character within the meaning of paragraph 2 of Article 27 were to be based, inter alia, on the following criteria:

(a) That all decisions of the Security Council adopted in application of provisions that appeared in the Charter under the heading "Procedure" were procedural and as such were governed by a procedural vote;

(b) That all decisions that concerned the relationship between the Security Council and other organs of the United Nations, or by which the Council seeks the assistance of other organs of the United Nations were procedural and consequently were subject to a procedural vote;

(c) That all decisions of the Security Council that related to its internal functioning and the conduct of its business were procedural and consequently were to be taken by a procedural vote;

(d) That certain decisions of the Security Council that bore a close analogy to decisions included under the above-mentioned criteria were procedural and were therefore subject to a procedural vote;

(e) That certain decisions of the Security Council, such as those taken on items 32, 33, 46 or 27, that were instrumental in arriving at or in following up a procedural decision were procedural.

7. On 14 April 1949, the General Assembly adopted resolution 267 (III), on the question of the voting in the Security Council, to which was attached an annex listing 35 decisions the General Assembly deemed procedural, hence subject to a procedural vote.

8. For the past 20 years, the Movement of Non-Aligned Countries has called for a review of the veto power. The Movement addressed the need to review the veto power in the declarations of Summits of the Movement held at Colombo (1976), Havana (1979), New Delhi (1983), Harare (1986), Belgrade (1989), Jakarta (1992) and Cartagena, Colombia (1995). The Cartagena Summit of October 1995 specified that the veto power was contrary to the aim of the democratization of the United Nations and must therefore be curtailed with a view to its elimination.

9. We can thus conclude from this introduction the following points:

(a) The subject under discussion, that is, the voting in the Security Council, has been considered previously by the Members of the United Nations;

(b) Yet there has been no legal definition of what constitutes a procedural matter or clear criteria as to what is of a procedural nature and what is not;

(c) There is no constitutional basis or agreed upon clarification of the scope of application of the veto. It is therefore appropriate at a time when the effectiveness and efficiency of the Security Council are being considered that Member States undertake the codification of the scope of application of the veto;

(d) The position of the Movement of Non-Aligned Countries on the question of the veto has been consistent since the Colombo Summit Declaration of 1976.

10. It should be recalled that in 1949 the General Assembly, in conformity with Article 10 of the Charter, adopted resolution 267 (III) on the scope of application of the veto. Today, as the international climate is more favourable to improving the working methods of the Security Council, and 47 years after the adoption of resolution 267 (III), it is appropriate for the General Assembly to review the scope of the application of the veto in a consistent and authoritative manner.

11. Given the view expressed by many States that the veto should be curtailed and rationalized, the Working Group ought to recommend, inter alia, that the Charter be amended so that, as a first step, the veto power should only apply to actions taken under Chapter VII of the Charter.

Notes

1/ A "qualified vote" means the vote of seven members, including the concurring votes of the five permanent members.

2/ A "procedural vote" means the vote of any seven members.

ANNEX VIII

SUMMARY OF IDEAS ON A POSSIBLE SYSTEM OF MORE FREQUENT ROTATION IN ADDITIONAL NON-PERMANENT SEATS IN THE SECURITY COUNCIL

Spain: working paper*

1. Our Working Group should now take up the study of the proposals - mainly those of Italy, Turkey and Mexico - which concern systems of rotation in the Security Council. Pursuant to these proposals, it is not a question of creating new categories of membership of the Council, but of allowing some States which have strength and influence in international relations, and the capacity and will to make a significant contribution to the fulfilment of the Organization's purposes, to participate more frequently as members of the Council.

2. The purpose of the present paper is to outline a few ideas and thoughts in order to illustrate the functioning of a possible system which would allow a relatively broad group of States to participate more frequently in the Security Council in accordance with objective criteria based on the principles established by Article 23 of the Charter of the United Nations. This system could function independently and without detriment to any solutions that may be deemed appropriate with regard to the question of a possible increase in the number of permanent seats, with or without the right of veto.

3. The delegation of Spain is of the view that the criteria to be applied in order to ensure the proper application of Article 23 of the Charter should be:

(a) Objective, so that they will enjoy general consensus and the support of all Members of the Organization;

(b) Open and flexible, so that they will allow participation by any State that meets the criteria. Thus, flexible access to more frequent participation in the Security Council will become an incentive for countries to maintain or increase their contribution to the tasks of the Organization, particularly those relating to international peace and security.

4. The point of departure should be Article 23, paragraph 1, of the Charter, which provides, in respect of the election of non-permanent members of the Council, for due regard to be specially paid, in the first instance, to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

5. Accordingly, the first criterion to be applied should be the contribution of military, police and civilian personnel to United Nations peace-keeping operations. Indeed, the most serious commitment that Member States can make to the Organization is the contribution of their nationals to such operations, which often constitute high-risk situations. Such contribution may be said to be the touchstone of each country's real commitment to the tasks of the Organization with regard to the maintenance of international peace and security. The intense national debates that arise in many countries when contributions to such operations are being decided on, negotiated and assessed bear witness to this.

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* Presented on 28 February 1996. Previously issued as A/AC.247/1996/CRP.10.

6. Another criterion could be the financial contributions effectively disbursed to the Organization's budgets. This is an important criterion, as it ensures crucial financial support, not only for the day-to-day functioning of the Organization, but also for the implementation and development of peace-keeping operations. This is especially relevant at the present moment, when the Organization is undergoing a financial crisis.

7. Lastly, without excluding any other criterion that might be applied, it is necessary to take into account the population of Member States. At a time when efforts are being made to democratize the Organization, it would be very beneficial for the countries with larger populations to participate more frequently in the Security Council. In addition, by increasing the participation of developing countries, such a demographic criterion would offset the previous criterion, which is based more on economic capacity.

8. A given percentage could be established for each of the three criteria mentioned above which would allow a number of countries to be included in the more frequent rotation cycle. The cycle would include those countries which had the required percentages in any of the following categories:

(a) Total personnel assigned to peace-keeping operations;

(b) Total financial contributions effectively disbursed, both to the Organization's regular budget and to the peace-keeping budgets;

(c) Population as a percentage of the world total.

The percentages could be calculated with reference to a certain period immediately preceding the start of the respective cycle. Since non-permanent members of the Council are elected for a term of two years, a few simple calculations can be done, purely for illustrative purposes, on the basis of a two-year period (1994-1995), in order to consider the results.

9. Thus, for example - leaving aside the current permanent members of the Council - we find that:

(a) Fifteen countries have a population totalling over 1 per cent of the world total; of these, six have a population totalling over 2 per cent;

(b) Ten countries have made contributions totalling over 1 per cent of the United Nations budgets (both the regular and the peace-keeping budgets); of these, six have made contributions totalling over 2 per cent;

(c) Lastly, 27 countries have each contributed over 1 per cent of the personnel assigned to peace-keeping operations; of these, 13 have contributed over 2 per cent.

10. Of the 39 States that are above the 1 per cent level in at least one of these categories, 18 are developed countries and 21 are developing countries. Overall, 18 States score above 2 per cent in at least one of the three categories. Eight of them are developed countries and 10 are developing countries. The countries on both lists belong to all the regional groups recognized by the Organization.

11. Thus, a list of countries formed on the basis of these criteria would not be composed exclusively of either rich countries (since population and troop

contributions would both be taken into account) or large countries, since small countries with relatively large troop contributions could also be included and have their efforts acknowledged by the international community.

12. Another advantage of a system such as this is that the list would be renewable at the end of every cycle, allowing new States to be included in the rotation, on the basis of data reflecting changes in their participation in United Nations activities or their population.

13. At this point, it is necessary to return to Article 23, paragraph 1, of the Charter, and to the principle of equitable geographical distribution. The regional groups would continue to submit their candidacies to the General Assembly in accordance with a pre-established rotation, as they have done up to now; the Assembly would have the last word, by electing these countries to the Security Council through a two-thirds majority vote, as in the case of the other non-permanent members. This would ensure that the countries elected to the Council would not only convey the concerns and aspirations of the various regions, but would also act on behalf of the entire international community, as stipulated by Article 24 of the Charter.

14. What has been stated on previous occasions bears repeating, namely, that a system of more frequent rotation for a certain number of States will also increase opportunities for participation by other, smaller States, which, when being endorsed by their regional groups, are frequently displaced by other States with greater influence in the region.

15. From a legal standpoint, a system of rotation such as the one described would be simple to implement, since the only change that would need to be made to the Charter would be to amend Article 23 so as to increase the number of non-permanent members. The rest of the system could be put in place through a General Assembly resolution adopted by consensus or with very broad support.

16. In conclusion, a system structured along these lines would be more equitable than the present one, would ensure a more efficient Security Council, and would be objective, thus winning the acceptance of all Members of the Organization.

SUMMARY OF IDEAS ON A POSSIBLE SYSTEM OF MORE FREQUENT ROTATION IN ADDITIONAL NON-PERMANENT SEATS IN THE SECURITY COUNCIL

Spain: working paper

Addendum*

Ideas for adaptation of the Security Council system for the adoption of decisions

A compromise solution with a view to adapting the Security Council system for the adoption of decisions could be based on the distinctions established in Article 27 of the Charter of the United Nations. This would allow for differentiation of three types of Council decisions, concerning:

(a) Procedural matters: Decisions would be adopted by an absolute majority of the members of the Council;

(b) Substantive matters not related to Chapter VII: A special qualified majority would be required, without the right of veto (this majority could be established at three fifths or two thirds of the members of the Council);

(c) Substantive matters related to Chapter VII: The same qualified majority would be required, but with the possibility for permanent members to exercise the right of veto.

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* Submitted on 28 February 1996. Previously issued as A/AC.247/1996/CRP.10/Add.1.

ANNEX IX

A REVISED PROPOSAL FOR THE ENLARGEMENT OF THE SECURITY COUNCIL OF THE UNITED NATIONS

Italy: working paper*

I. INTRODUCTORY REMARKS

1. It is generally agreed that the present membership of the Security Council is in need of expansion, if only to reflect the steady rise in membership of the United Nations. General membership has grown from 51 members in 1945, to 113 in 1965 (date of the Council's only enlargement, from 11 to 15 seats), to 185 today.

2. The five permanent members all belong to the northern hemisphere and four of them are economically developed countries, while one is rapidly approaching industrialized status. To add new permanent seats only for two developed countries, which also belong to the northern hemisphere, would not be equitable or democratic. Rather than correcting the existing imbalance, such a solution would aggravate it.

3. Moreover, the establishment of new permanent seats would extend a situation of eternal privilege to other countries. Such a development would be anachronistic and incompatible with the principle of sovereign equality of States, which lies at the foundation of the United Nations. Fifty years after the establishment of the Organization, an imaginative effort is needed to search for new formulas, rather than merely extending old privileges to other countries.

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* Presented in May 1996. Previously issued as A/AC.247/1996/CRP.11.

4. The reform must move in a democratic not an elitist direction.

5. A more equitable solution for all would be to increase non-permanent seats only, as was the case with the reform of 1965. Among other things, this would prevent the difficulties connected with the proliferation of veto power and its dangers.

6. The numbers speak clearly: 77 countries have never been members of the Security Council, while 47 others have been able to serve only once (see annex I). The problem stems mainly from the fact that, within each geographical group, several large countries tend to compete for a Security Council seat much more frequently, thus elbowing out the smaller countries. A formula must be found to redress this chronic situation and to provide for a greater and more regular involvement of the many, not of the few, in the Security Council.

II. THE ITALIAN PROPOSAL FOR THE ENLARGEMENT OF THE SECURITY COUNCIL

7. Italy first presented its proposal on 30 June 1993, in response to the Secretary-General's questionnaire. The proposal was later illustrated by the Italian Minister of Foreign Affairs before the General Assembly on 30 September 1993, and gradually modified in the light of observations and proposals made by other countries in the course of the meetings of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council. The present document is the latest revision of the Italian proposal, which can now be summarized as follows:

(a) The two categories of permanent and non-permanent members should be kept and the current permanent membership of five should remain the same;

(b) Ten new non-permanent seats should be added. For each of these seats, 3 States would be rotating, making a total of 30 States. Consequently, each of them would remain two years on and four consecutive years off the Council. These 30 States, which therefore would rotate more frequently and regularly than others, should be selected on the basis of objective criteria to be determined by the General Assembly;

(c) All 30 countries due to rotate more frequently and regularly would be subject to regular elections. They would need to obtain two thirds of the votes of the General Assembly, by secret ballot, in a manner similar to the present clean-slate mechanism, every time it is their turn. Should the candidates not obtain a majority by the third ballot, the second country from the same subgroup of three States could then run, according to the same procedure. If this second country also fails to obtain the required majority, this seat would become open to election to all members of the same geographical group, according to current practices;

(d) Obviously this model presupposes maintaining the Charter provision that bans immediate re-election for a member who has just completed a two-year term. In fact, if the ban were to be abolished, the number of spaces available for other countries would automatically be reduced, limiting the right of all to

equitable representation. We should not forget that in the League of Nations the possibility of immediate re-election to a seat on the Council was one of its key problems;

(e) The list of the above-mentioned 30 countries to rotate with greater frequency and regularity would be subject to periodic revisions (every 10, 12 or 15 years), thus avoiding the risk of creating new situations of "eternal" privilege. The assessment should depend essentially on the degree to which a country has managed to honour the commitment and meet the increased responsibilities stemming from its more frequent rotation. If it has not, it should be replaced, by resolution of the General Assembly, with another country;

(f) The geographic distribution of these additional non-permanent seats should be such as to privilege the continents that are currently underrepresented. So if 10 new seats were to be added, 5 of them should go to the Groups of African and Asian States, 2 to the Group of Latin American and Caribbean States, 2 to the Group of Western European and Other States (which by itself continues to shoulder 65.13 per cent of the United Nations regular budget and 73.675 per cent of the peace-keeping budget), and 1 to the Group of Eastern European States. In this way, 70 per cent of the additional non-permanent seats would be reserved for developing countries;

(g) For financing peace-keeping operations, the present permanent members are required to pay a sum amounting to their contribution to the regular budget, plus a surcharge. The possibility could be envisaged of charging the more frequently and regularly rotating members an additional percentage on their financial contributions to peace-keeping operations, equivalent to half the percentage paid by the permanent members for the same purpose. This would greatly help the United Nations to overcome its present financial crisis and spread the additional burden to a group of 30 countries rather than to 2 or 5 members alone. The Secretary-General has recently written that the Organization's excessive dependence on the assessments of a single Member State is unhealthy. The same would also be true if the United Nations had to depend only on the assessments of two or three Member States;

(h) Finally, the majority required for the adoption of a resolution, provided for by Article 27 of the Charter, should be adjusted to the new size of the Security Council. Consequently, the Council would make decisions by an affirmative vote of 15 members rather than by the present 9.

8. The Italian proposal may be better illustrated by the following diagram:

Permanent members:	1.		
	2.		
	3.		
	4.		
	5.		
Non-permanent members:	1.		ordinary rotation
	2.		
	3.		
	4.		
	5.		
	6.		
	7.		
	8.		
	9.		
	10.		
	11.		more frequent rotation
	12.		
	13.		
	14.		
	15.		
	16.		
	17.		
	18.		
	19.		
	20.		

III. CRITERIA FOR IDENTIFYING COUNTRIES TO ROTATE WITH GREATER FREQUENCY AND REGULARITY

9. By way of example, one could consider the following criteria:

(a) The contribution of Member States to the maintenance of international peace and security and to the other purposes of the Organization (Article 23 of the Charter);

(b) Equitable geographic distribution (Article 23 of the Charter);

(c) The capacity and willingness of States to contribute specifically to peace-keeping operations with military personnel, equipment and financial resources;

(d) The ability and willingness to participate in voluntary funds for humanitarian activities, economic development and the protection of human rights.

10. Needless to say, additional criteria could be taken into consideration.

IV. ADVANTAGES FOR THE UNITED NATIONS

11. Following are some of the benefits to the Organization:

(a) An enlarged Council more representative of the increased general United Nations membership;

(b) Avoidance of new situations of "eternal" privilege, as would occur instead if additional permanent seats were created;

(c) A greater and more democratic participation of all Member States in the activities of the Council, which is a basic premise for more effective decisions;

(d) A more equitable geographic distribution of the seats in the Council. It is easier to obtain this result on a basis of 30 countries than on the more limited basis of 2 or 5 additional permanent member countries;

(e) An important incentive for more frequently and regularly rotating members to keep or increase their commitment to achieving the objectives of the Charter, in particular for the maintenance of international peace and security. Such members might be asked to make an increased contribution to peace-keeping operations: this would be a tangible sign of the greater responsibilities deriving from their more frequent presence in the Council;

(f) Lowering the growing contentiousness that seems to characterize elections to the Security Council.

V. ADVANTAGES FOR ALL MEMBER COUNTRIES

12. The proposal also presents a set of concrete advantages for all Member States of the United Nations, namely:

(a) Smaller countries would be given a more fair chance of being elected to a non-permanent seat by removing and shielding them from the unequal competition of the larger ones in each regional group. Even better, rotation agreements could be reached, and respected, within each group, thus ensuring that also for ordinary rotation the "clean slate" formula could be adopted;

(b) Countries rotating more frequently and regularly would be given recognition of their more substantial role in support of the United Nations. They could also plan - in a more regular and long-term way - their policy of support for the United Nations and their contribution, financial and otherwise, to the achievement of the goals of the Organization, in particular to those of

the Security Council. Furthermore, those countries could establish among themselves special links, in groups of three, for rotating the additional non-permanent seats;

(c) The permanent members could see their present burden for peace-keeping operations reduced, since it could be shared not with 2 or 5 additional members, but with 30 more frequently and regularly rotating countries.

VI. REASONS FOR OPPOSING THE EXTENSION OF VETO POWER

13. Veto power - invoked as an inalienable prerogative of permanent membership by some countries aspiring to that status - is an institution that may have been justified during the cold war years. Nowadays, the hope of many is that it may become obsolete through non-use.

14. While in recent years the permanent members have shown considerable restraint in making recourse to the veto, it is also true that nothing guarantees that this tendency will continue and become irreversible. Moreover, the simple threat to use the veto can have a strong impact on the Security Council's proceedings and the final outcome of its debates.

15. This is why Italy is opposed to extending veto power to other countries. One of the main advantages of the Italian proposal to increase non-permanent members is that the issue of such an extension would not arise at all.

16. Moreover, while it may appear unrealistic to hope that the current holders of the veto will be willing to renounce it spontaneously, Italy shares the opinion of those who believe that its use should nevertheless be regulated and contained as much as possible: by trying to limit its area of application, for example, or requiring at least two vetoes to block the adoption of a resolution.

VII. FINAL CONSIDERATIONS

17. If the Italian proposal were adopted, the General Assembly would maintain its central role and link with the Security Council for the following reasons:

(a) It would be up to the General Assembly to determine, by a resolution and on the basis of objective and agreed upon criteria, the list of 30 countries rotating more frequently and regularly;

(b) The General Assembly would periodically, every 10-15 years, review such a list and make changes in its composition;

(c) All non-permanent members of the Council - without exception - would have to submit to elections by secret ballot in the General Assembly, and obtain a two-thirds majority.

18. An increase in permanent seats would widen the gap between the Security Council and the General Assembly, since the new permanent members would not have to stand for democratic elections and thus would not in practice be accountable

to the General Assembly. The Italian project would instead foster a smoother and more harmonious relationship between the two bodies.

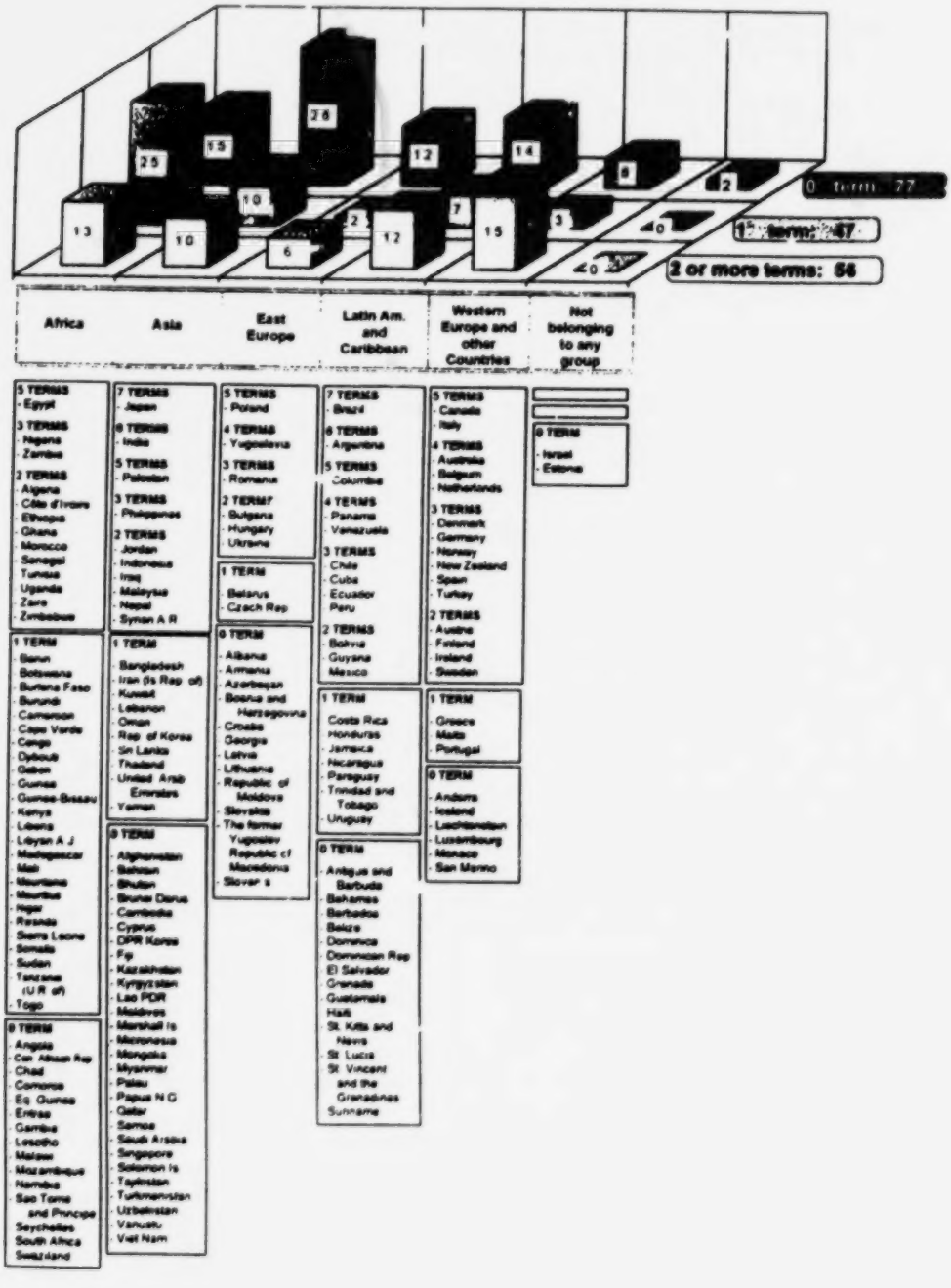
19. Critics of this formula imply that it ultimately creates a third category of members. This is simply not so. First of all, in their initial selection, review and election for every term, these countries would be totally subject to the decisions of the General Assembly, like all non-permanent members. Secondly, while members rotating more frequently and regularly would stand for election every six years, the other countries could compete - in theory - every four years. Thirdly, shielded from the competition of larger countries, mid-sized and small States could in turn establish fair rotation agreements among themselves for "clean slates", with a realistic hope of being elected.

20. What the Italian proposal aims to do is ease rivalries and foster a climate of greater harmony. Other projects would instead heighten the competition between them. In fact, the major beneficiaries of such a reform would be the smaller and mid-sized States, 79 of which have been kept out of the Council so far.

21. Last but not least, such a reform would be easy to implement. All that would be needed is to amend two Articles in the Charter, Article 23 (Composition), to reflect the increase in non-permanent members, and Article 26 (Voting), to indicate the new majority required for decisions.

ANNEX

Terms on the Security Council of non-permanent members, as at March 1996



ANNEX X

THE CASE FOR A NEW INTERPRETATION OF ARTICLE 31 OF THE CHARTER OF THE UNITED NATIONS

Czech Republic: working paper*

1. The present paper is being submitted for consideration by the Open-ended Working Group on the Question of Equitable Representation and Increase in the Membership of the Security Council. It provides argumentation for a new interpretation of Article 31 of the Charter of the United Nations.

Article 31

2. Article 31 reads as follows:

> Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected. 1/

3. The use of Article 31 has expanded dramatically in recent years and is practically never challenged. If a Member wishes to take part in a Security Council debate, its request is granted and the Member is invited as a matter of course. However, this applies only to formal Security Council sessions (which is where "discussions" in the meaning of Article 31 are deemed to occur). The country's statement is heard out by Security Council members; but as a rule it has no bearing, no impact on the document under discussion - which will have

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* Presented on 1 February 1996. Previously issued as A/AC.247/1996/CRP.13.

been prepared, every "i" dotted and every "t" crossed, during previous informal consultations. It is hard to recall when, under the impact of a Member's statement, the draft document that was on the table would in any way have been amended. 2/

4. However, the intent of the founding fathers was no doubt different. In mentioning participation in "discussions", their intent certainly was that Security Council non-members should have a chance to participate in discussions preceding the formulation of Council opinions: even perhaps in drafting the language of resolutions and, by extension, of presidential statements. Article 31 was viewed as a compensatory rule tempering the fact that Article 23 governing the composition of the Security Council violates the otherwise cherished sovereign-equality principle. The participation provision of Article 31 recognizes not only the need for the Security Council to be fully informed but also the legitimate interest of Member States in participating in the discussion. 3/

Informal consultations

5. These days, substantive discussions take place of course not in formal sessions but during informal consultations of the Council. However, informal consultations are mentioned neither in Chapter V of the Charter nor in the Security Council's provisional rules of procedure. This is not an accident: informal consultations take place behind closed doors, and in the early years of the United Nations, Members felt an aversion towards secret diplomacy, an aversion that in the case of smaller and medium-sized countries bordered on outrage. 4/ Provisional rule 48, which postulates that the Council usually meets in public is, for example, a direct outcome of those sentiments.

6. In fact, in the early years of the United Nations, "informal consultations" actually meant nothing more than that - that is, informal consultations among several, but seldom all, Security Council members. (They were actually often intended to outfox the opposition rather than to seek consensus on the Council.) Informal consultations as we understand them today, that is, consultations of all members of the Council, were introduced only under Secretary-General Dag Hammarskjöld, when, in November 1955, Ambassador Entezan of Iran, then President of the Council, turned the customary but hitherto annual President's lunch honouring the Secretary-General into a monthly event, a practice that continues to this day. These were the modest beginnings of today's regular informals.

7. At the time, they served as a vehicle to get around the deep freeze accompanying the coldest period of the cold war. However, they were held with increasing frequency during the 1960s, during the ebb and flow of detente. In those days, they were informal indeed, with 11 delegations plus Secretariat staff and a few interpreters crammed into the President's office. With the increase in 1965 of Council membership to 15 and with the expansion of the number of official languages, the President's office got tighter and tighter. Consultations were not only informal but also physically uncomfortable. Finally, in 1975, the construction of a separate room was authorized (allegedly initiated by Secretariat staff and the interpreters).

8. Thus the present informal-consultations arrangement can be conveniently dated to the completion of the consultation room in 1978 and to the introduction of simultaneous interpretation to its proceedings. From one year to the next, from 1977 to 1978, the number of informals jumped three times and the time spent in them more than quadrupled. 5/

Secrecy

9. The presumption of secrecy concerning the goings on during informals is their strength but also their weakness. In actuality, no secrecy obtains: the Secretary-General and his immediate circle is provided with an unvarnished and even scathing daily report of the discussion, for one. More importantly, it has become customary for members of participating delegations to report to Council non-members about the proceedings, sometimes blow by blow. A delegation with enough personnel resources can consequently learn about every comment made behind the closed doors. Those who need to find out, do. In fact, this method of reporting is sometimes actually considered a safety-valve against demands that informal consultations be made more accessible.

10. Nevertheless, it is assumed that even the mere semblance of secrecy, or at least of confidentiality, allows Council members to speak more freely, to be more amenable to arguments of their colleagues, to be less formal.

11. On the other hand, it can be argued that the secrecy of these proceedings, which generates a certain mystique, combined with their frequency (which peaked in 1994, with 273 meetings) has greatly contributed to the chasm of mistrust between members and non-members of the Security Council. Questions of legitimacy and representativity of the Council, and certainly questions of its transparency, would lose some of their edge if the Council's proceedings were not perceived as being quite so secretive. 6/ This is where a reinterpretation of Article 31 comes into the picture.

Article 31 applied to informals?

12. What would happen if Article 31 were interpreted so as to allow the participation of Security Council non-members in informal consultations, whenever a question affecting their own country was on the agenda? Making this possible is the thrust of the present proposal. The idea causes discomfort. Some feel that that presence of a representative of a country under review would inhibit the discussion, that Council members would feel constrained in expressing themselves freely, in short, that the assumed great advantages stemming precisely from the secrecy of informal consultations - however fictitious it is - would be lost. This is perhaps the greatest objection heard against proposals to revisit the usage of Article 31.

13. However, during 1994 and 1995, the Security Council experienced an important object lesson of how the application of Article 31 to informal consultations would function in practice. One country's various affairs came up in informals practically every month. And all along, a representative of that country attended most of these discussions, for, coincidentally, that country itself was a member of the Security Council during those years: Rwanda.

Rwanda

14. In 1994 and 1995, the Security Council adopted more than 30 resolutions and presidential statements concerning various aspects of the situation in Rwanda. In addition, in 1995 it dispatched a fact-finding mission to the country.

15. The gamut of issues concerning Rwanda was so extensive as to be possibly unparalleled in the history of the Council. Consider its breadth: the implementation of the Arusha peace agreement between the Hutu Government and the Tutsi Rwanda Patriotic Front (RPF); the changing mandates and strengths of the United Nations Observer Mission Uganda-Rwanda (UNOMUR) and the United Nations Assistance Mission for Rwanda (UNAMIR) peace-keeping operations; the genocide; imposing an arms embargo, and relaxing it a year later; refugees and displaced persons; establishing an international war crimes tribunal, and electing its members; post-war reconstruction efforts; issues affecting neighbouring countries - and this list may not even be exhaustive. In addition to the diversity of issues, the intensity of the Security Council's preoccupation with Rwanda, as measured by the number of documents adopted, was also extraordinary, exceeded during the years in question only by its preoccupation with the former Yugoslavia - which of course includes not one but several countries.

16. How well the Council managed to cope with the Rwanda issues is a matter of some contention. Its initial response to the genocide and its decision to reduce UNAMIR have been criticized particularly severely. But for the purposes of the present examination, one question looms paramount: did Rwanda's presence during the Security Council's informal consultations have any substantial negative effect on the quality of these consultations? Or did it in fact help?

17. During 1994 alone, Rwanda was represented at different times by permanent representatives of two diametrically different Governments, and for several months the country was not represented at all. Then again in December 1994, Rwanda actually presided over the Security Council.

18. There is no doubt that, at times, Rwanda's presence made the work of the Council more difficult. This was particulary clear when a document was being discussed and consensus was sought - either statutorily, in the case of presidential statements, or in the search for as broad as possible support for a resolution. Efforts to accommodate Rwanda's positions in the langauge of Council documents were often difficult, even exasperating, and not always successful. 7/ (The difficulties stemmed from the fact that the need for Rwanda's acquiescence in consensual matters on occasion led some delegations to think of stretching paragraph 3 of Article 27 of the Charter, which states that "a party to a dispute shall abstain from voting", so as to limit Rwanda's active participation even in informals.)

19. However, these undeniable difficulties do not in and of themselves constitute an argument against the proposed expanded application of Article 31, inasmuch as they would not obtain in any future instance. Views of a participating country, which by definition would be a non-member of the Council, would not have to be accommodated in seeking a Council consensus. In fact they could - and often no doubt would - actually be completely ignored, if Council members disagreed with them.

20. Another possibl- negative stemming from Rwanda's participation is more technical. The very process of having the Rwandan delegation explicate its positions and having the Council consider them certainly took extra time. And that could possibly, and uncharitably, be interpreted as a negative as well. On the other hand - and this is the position of the Czech delegation - the benefits from participation of a concerned non-member of the Security Council would make spending extra time in listening to its opinions and discussing them well worthwhile.

21. But there was one last serious negative, and again, one very specific to Rwanda. The presence of the Hutu Government's representative on the Council probably led to the Council's not appreciating sufficiently the difficulties between that Government and the RPF in the first three months of 1994. Furthermore, after 6 April 1994, it may have slowed the Council's understanding of the true nature of the ensuing genocide. This negative, however, concerns a broader matter, namely, efforts of the Council to have at any given time the best information available, irrespective of its provenance.

22. Against all this, there was one overridingly important positive result of Rwanda's participation: the Council had, at any given time, a very direct understanding of the thinking of Rwandan authorities represented at the moment on the Council. Especially in instances when the country's cooperation was important, but even in instances involving Chapter VII provisions, this input was important factually and the direct communications from the delegation of Rwanda were useful. And, in the other direction, it was equally useful that Council members' views were, again through the mediation of Rwanda's delegation, immediately and directly transmitted to Kigali.

Recommendations

23. The Security Council has the authority to adopt its own rules of procedure, given by Article 30 of the Charter. There is thus nothing to stop the Council from reinterpreting Article 31 so that it applies to its informal consultations. The result should be as follows.

24. Whenever the situation in a given country is featured on the agenda of informals, the Council should decide to invite a representative of that country to participate in the discussion of that particular agenda item. Whether a member would be invited on an ad hoc basis or automatically, whether every member featured on the agenda would be invited or just certain members, whether some issues (sanctions renewals?) would continue to be "off limits" - these matters would be up to the Security Council itself to decide, and the practice will no doubt evolve over time. 8/ (In the very least, given the current practice of the Council, one could envisage that the non-member country would be invited for the first round of discussion, that is, for the "first reading" of the Secretary-General's report, which usually kicks off the given stage of the consideration of an issue.)

25. Not even under Article 31 do Members have an explicit, unconditional right to participate in the discussion of issues of interest. The formulation is that a Member "may" participate, whenever the Council considers "that the interests of that Member are specially affected". Under Article 31 it is the right of the

Security Council to invite - or not to invite - Members to participate in its deliberation. There is thus no question of any "surreptitious" expansion of Security Council membership that some may fear.

26. One of the difficulties with the proposal is that it would automatically give reigning Governments of Member States an added advantage. This is a serious consideration in situations involving civil strife, for the opposition would not have the privilege of attending Security Council consultations under this proposal. Issues of how much practical difference this would mean, whether various opposition groupings might not seek out other vehicles for making their case do perhaps deserve further reflection. 9/ Being a Government does, however, go with certain prerogatives.

Conclusions

27. The nature of informal consultations has been changing throughout the 50-year existence of the Security Council. Originally, they amounted merely to consultations of two or of several parties. This type of consultations will exist always, and these are the only truly informal ones. (Today, they take place among various subsets of permanent members, among members of the Movement of Non-Aligned Countries, among Contact Group members, among Friends of the Secretary-General for this or that country - to name a few of the more established groups of Security Council members.) During the 1960s, informals served as a vehicle to get around the cold-war deep freeze. During the 1970s, they became institutionalized, with the construction of a special room, and were held more frequently, relegating the Security Council formal sessions to something of a theatre.

28. As informals gained in significance in the overall pattern of work of the Security Council, their secrecy became an ever greater irritant to Council non-members and an obstacle to transparency. Attempts to improve transparency that have taken place so far are important and welcome but even more can, and in the opinion of the Czech delegation should, be done. One major step would be to reinterpret Article 31 of the Charter so as to have it apply to informal consultations as well. 10/ Some negative results might follow but the Czech delegation believes that the positive effect would far outweigh any negative ones. This opinion is based, inter alia, on the experience during 1994 and 1995 with the membership on the Council of Rwanda, a member with one of the hottest agenda items affecting international peace and security during those years.

Notes

1/ Article 31 allows participation of a country if a "question" concerning it is brought before the Security Council; Article 32 allows such participation if a "dispute" is raised. Moreover, under Article 32, a member "shall be invited to participate", rather than "may participate" in the discussion. However, since agenda items are nowadays practically never described as disputes, Article 32 is moot. However, were circumstances to change, the thrust of this non-paper would apply, as appropriate, to Article 32 as well.

2/ The only type of cases to the contrary are instances when the Security Council meets in a formal session without actually adopting a document. One could argue that the statement of President Shevardnadze, made during the 3346th meeting, on 9 March 1994, may have had a chance of influencing the wording of resolution 906 (1994), which extended the mandate of UNOMIG and which was adopted at the 3354th meeting, on 25 March 1994 - even though in actuality, there is no evidence that President Shevardnadze's intervention did actually influence it in any way.

France, which coincidentally presided over the meeting with President Shevardnadze, later introduced a measure that called for more frequent formal meetings of the Security Council, just for purposes of debate, even when there was no document to be adopted - "in particular at the early stage in its consideration of a subject" (S/PRST/1994/81 of 16 December 1994). However, these meetings have been conspicuous by their scarcity; perhaps only two were held in 1995.

3/ Cf., e.g., Bruno Simma et al., The Charter of the United Nations, A Commentary, Oxford University Press, 1994, p. 499. Pp. 495-502 are devoted to Article 31 in all its aspects.

4/ Cf. Sidney D. Bailey, The Procedure of the UN Security Council, Oxford: Clarendon Press, 1988, p. 40.

5/ For information about the early years, see Lois Feuerle, "Informal Consultations: A Mechanism in Security Council Decision-Making", in New York University Journal of International Law and Politics, vol. 18, No. 1, autumn 1985, pp. 267-308.

6/ Pérez de Cuéllar, for one, also had his doubts about the secretiveness of informals. As he stated in his report on the work of the Organization (Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 1 (A/37/1), p. 2):

> "There is sometimes a risk that this process may become a substitute for action by the Security Council or even an excuse for inaction."

7/ Rwanda - represented at the time by officials of the rapidly retreating Hutu Government - for example requested voting by individual paragraphs resolution 918 (1994) (adopted on 17 May 1994) and voted against paragraph 13, which imposed an arms embargo on the country. The new Government in Rwanda abstained in the vote on resolution 955 (1994) (of 8 November 1994), which established the International Tribunal for Rwanda. In April 1995, the presiding Czech delegation was involved in some delicate but finally successful negotiations in order to secure Rwanda's agreement to the text of a fairly comprehensive presidential statement, S/1995/PRST/22.

8/ There is one other issue of significant technical importance. Perhaps only the technical mavens of the Secretariat are still able to distinguish between informal consultations (of the whole) and formal but private Security Council meetings. Provisional rule 48 envisions the possibility of the

Council's holding meetings that are "private" though formal. (The rule says that the Security Council shall meet in public, "unless it decides otherwise". It thus clearly leaves open the possibility for it to meet formally, but in private.) For formal - if private - meetings of the Council, the application of Article 31 in the proposed manner ought to be automatic and would even preserve the continued privacy of informal consultations in the strict sense of the term.

9/ The "Arria formula" allows Council members to hear out foreign dignitaries in a private setting. In order not to violate the current regime of informals, the formula provides for a meeting in a different room and under the chairmanship of someone other than the President of the Security Council. If the present proposal were accepted, foreign dignitaries from Member States could meet with the Council during informals directly, without resorting to this formula. The formula might, however, still be preserved - especially for parties to disputes who are not members of the United Nations.

10/ The opinion that this would be a useful step is not new. Feuerle (op. cit.) ran into it more than 10 years ago.

ANNEX XI

PROPOSALS ON ROTATION OR SHARED SEATS, INCLUDING ARTICLE 23.2 OF THE CHARTER

Monaco: working paper*

Monaco's contribution relates to subparagraph 2 (a) of document A/AC.247, "Proposals on rotation or shared seats, including Article 23.2 of the Charter". It elaborates and complements the proposals previously outlined by the Monegasque delegation.

The wish to increase the membership of the Security Council is clear. It is a logical reflection of the profound transformation that has taken place in international society and, particularly, of the significant increase in the number of States Members of the Organization.

This is undoubtedly the only point on which there is really widespread agreement among States. Regarding the modalities for this increase, in contrast, it is difficult to find any real agreement, even though some ideas appear to attract more interest than others.

It is in this spirit that Monaco submits for the attention of the working group a simple and specific suggestion with a view to facilitating, if possible, the negotiations on increasing the number of both permanent and non-permanent members of the Security Council.

It consists of a formula which, as far as we know, has not yet been properly explored. Assuming an increase of 10 in the Security Council's membership, taking the number of members from 15 to 25, the formula could be as follows:

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* Previously issued as A/AC.247/1996/CRP.12.

- Increasing from five to ten the number of permanent members who would have the same powers and responsibilities as the current members. The five additional members could be designated, preferably on a regional basis, by the General Assembly, by a two-thirds majority vote and taking into account equitable geographical distribution and their capacity to contribute to peace-keeping operations;

- Increasing the number of non-permanent members from 10 to 15. The additional five non-permanent members could have a long term (between 6 and 12 years, for example) and be chosen by the General Assembly by a simple majority. Retiring members would be eligible for immediate re-election. Candidates should be capable of responding, as in the case of permanent members, to the need for an effective contribution to the maintenance of international peace and security, and to the other purposes of the Organization, and paying due regard, of course, to equitable geographical distribution (Art. 23, para. 1, of the Charter).

The other 10 non-permanent members would continue to be elected by the General Assembly for a period of two years, in accordance with Article 23, paragraph 2 of the Charter. They would not be eligible for immediate re-election at the end of their terms.

In Monaco's view, this proposal would have three advantages:

- First, it would provide an opportunity for five new major powers which are particularly representative and contribute substantially to peace-keeping operations and international security to have a permanent seat on the Security Council;

- Second, it would give an opportunity to five other leading Powers, in particular regional Powers, which regularly participate in such operations and contribute substantially to them to be involved in the work of the Security Council for long periods of time;

- Lastly, the more modest Powers would be able to participate in the Security Council with greater frequency, since the larger States which very often sit on the Security Council as non-permanent members would become permanent members or be elected for longer terms.

This is not, as Monaco sees it, immutable. Rather, it could form the basis for discussion and negotiation, since it is adaptable and can be tailored to different situations.

Thus, for example, if the membership of the Security Council is increased to 20, two members could be permanent and three could be non-permanent with a longer term. If it is increased to 22, three members could be permanent and four could be non-permanent with a longer term, and so forth.

The number of years in a longer term could also be flexible.

In conclusion, Monaco wishes to stress, in particular, that if the concept of non-permanent membership with longer terms is accepted, it would act as a significant means of encouraging certain Member States to maintain or increase their contributions to peace-keeping operations, since they would benefit, deservedly, from longer and renewable terms on the Security Council, thereby reflecting the size and regularity of their contributions.

ANNEX XII

THE QUESTION OF THE VETO

Uruguay: working paper*

Uruguay is fully convinced of the need for democratization of the Organization. This issue is linked to the need for strengthening of the General Assembly, a fully representative organ whose composition and functioning are unquestionably democratic.

The strengthening will be achieved through democratization of the system.

This goal has been expressed unanimously in numerous statements and declarations, both by Member States and by the most senior officials of the Organization, first and foremost among them the Secretary-General.

The right of veto is undoubtedly one of the features that must be changed if progress is to achieved in the democratization of the Organization and the strengthening of the General Assembly.

Most of the democratic constitutions of the States Members of the United Nations provide for the right of veto by the executive branch in order to establish a balance between the executive and legislative branches.

Accordingly, and in conformity with this practice, which is common to all democratic systems of government, Uruguay is of the view that it would be appropriate to apply it to the United Nations in respect of the relationship between the Security Council and the General Assembly.

Uruguay proposes, therefore, that the right of veto should be subject to suspension on specific occasions, as defined by a prescribed qualified majority of the General Assembly.

As is readily apparent, the scope of the exercise of this power by the General Assembly would be very broad, and should be subject to negotiation if this proposal is accepted.

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* Previously issued as A/AC.247/1996/CRP.14.

ANNEX XIII

SECURITY COUNCIL EXPANSION: NON-PERMANENT MEMBERSHIP AND THE NUMBERS

Australia: working paper*

1. The present paper focuses on the question of non-permanent membership. But because of the connections between the two categories of membership established in the Charter of the United Nations, it will be necessary to refer, in passing, to the other category of membership, permanent membership. The paper also addresses issues concerning the overall numbers for an expanded Council.

2. The delegation of Australia is of the view that the Working Group may be able to move its work towards the stage of forging consensus on the questions of expansion and equitable representation on the Council if it were to start from the periphery or edges of those questions and work towards the core. This would mean beginning by dealing first with the question of expanding the non-permanent membership of the Council to enable it to reflect better the increase in the membership of the United Nations that has taken place since the non-permanent membership was last expanded, that is, by the decision of the General Assembly in its resolution 1991 A (XVIII), of 17 December 1963, implemented on 31 August 1965.

3. Such an approach would have the Working Group begin by focusing on the number "ten" mentioned in Article 23.1 of the Charter. The questions that would need to be answered would be: as the number "ten" is no longer sufficient, by what number should it be increased; and, how would the overall number arrived at be distributed amongst the various electoral groups?

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* Presented on 27 March 1996. Previously issued as A/AC.247/1996/CRP.16.

4. The Australian delegation has previously called attention to the criteria for membership of the Council given in Article 23.1, pointing out that these had been challenged by no one.

5. It might be helpful to provide an illustration of this approach, not as an Australian proposal but rather as an illustration of an application of the methodology the delegation of Australia has suggested previously. This illustration is advanced in the belief that it may help foster concrete negotiations on a consensual solution.

6. When the 1963 decision was taken to increase the elected membership of the Council from 6 to 10 members, the membership of the United Nations was 109 Member States. Subtracting the 5 permanent members from that number and then dividing 104 by 10 reveals that the representation ratio for non-permanent members of the Council was 10.4:1.

7. If such a ratio of representation were applied to today's membership of 185, minus 5 permanent members, that would suggest that there should be 17 or 18 non-permanent members.

8. This points, straightaway, to an issue on which there has been widespread agreement within the Working Group, namely that whatever expansion of the Council is agreed upon should not produce a Council of an overall size that would reduce the efficiency and effectiveness of its work. A Council of 18 non-permanent members, together with the present 5 permanent members, would begin to approach the margin of such effectiveness and efficiency of operation. In addition, when taking into account the widespread agreement that the expansion of the Council must be in both Charter categories of membership and thus include an increase in the number of permanent members in a way that responds to both contemporary realities and the imperative of balance between North and South within the permanent membership, then that margin is reached.

9. The only conclusion that can be drawn from these central facts is that the ratio of representation for non-permanent members that existed in the past, namely 10.4:1, must now be altered.

10. Turning to today's membership of 185 States and subtracting 5 permanent members so that the electoral pool is 180 States, the question becomes - what ratio of representation should be applied?

11. If that ratio were moved from 10.4:1 to 11:1 then this would mean between 16 and 17 non-permanent members. If the ratio were 12:1 then this would mean exactly 15 Member States.

12. Fifteen non-permanent Member States plus the five present permanent Member States would provide a Council within the numerical limit that is considered efficient and effective. But it would again fail the requirement to expand the Council in each of the Charter categories of membership. Accordingly, if the category of permanent membership were also to be expanded by 5, as is widely discussed, then the overall size of the Council, 25, would be of a size that a very large number of Member States have indicated they believe would be acceptable.

13. Before examining how a non-permanent membership of the Council of 15, as against the present 10 Member States, could be distributed to ensure that the criterion of equitable geographical distribution was satisfied, it might be useful to examine briefly the ratio of 12:1 and the concept of representation to which it would seek to give effect.

14. Using the Australian system of Government as an example, the pool from which members of the executive Government, that is the Ministry and the Inner Cabinet, can be drawn is the Parliament of 224 members. Following Australia's national elections held in March 1996, such an executive Government was formed numbering 28 ministers. This was a ratio of 8:1. The Inner Cabinet numbers 15 ministers, giving a ratio of 15:1.

15. It would be wrong to suggest that the way in which Australia forms its national Government would be a model for or has a specific application to what the Working Group is discussing with respect to the Security Council of the United Nations. Nor is it suggested that the Security Council is in any way the "Inner Cabinet" of the United Nations. It is not. But, there are principles of representation involved in the General Assembly's election of members of the Security Council that are not utterly distant from the principles that are illustrated by the Australian example above.

16. For example, points that may be derived from this example are: the ratio of representation of 12:1 is within the sort of range that could be expected to apply when a larger body of sovereign entities agrees to elect representatives to work on its behalf on specific executive issues, in the case of the Security Council, on "the maintenance of international peace and security"; and, the need to achieve the increase in the size of elected representation on the Security Council necessitated by the increase in the size of the pool of electors, can be satisfied through making a slight change in the past ratio of representation that is both within that range and maintains an optimal size of the executive body being so elected.

17. The present paper now returns to the question of what outcome the application of a representation ratio of 12:1 for elected members of the Security Council would produce.

18. Employing the four existing electoral groups, the present five representatives from African and Asian States could be increased to seven; the present one representative from Eastern European States could be increased to two; the present two representatives from Latin American and Caribbean States could be increased to three; and the present two representatives from Western European and other States could be increased to three.

19. These are not firm Australian proposals. They are illustrations of the application of a methodology that might help members of the Working Group begin to agree together, to negotiate a solution acceptable to all.

20. When consideration is given to the illustration above of a possible distribution of 15 seats deriving from a ratio of 12:1, it is important to call attention to the fact that the African and Asian Group represents some 55 per cent of the pool of 180 States; the Eastern European Group 11 per cent; the Latin American and Caribbean Group 19 per cent; and the Western European and Other States Group 15 per cent.

21. It could be argued that any consideration of the methodology, and more particularly the possible application of it as outlined above, either cannot be pursued separately from consideration of the issue of permanent members and/or that consideration of that issue would in turn affect the calculations that have supported what has been outlined.

22. On the latter point, the fact is that if the Working Group were to begin by subtracting 10, not 5, permanent members, leaving an electoral pool of 175, not 180, for non-permanent members, the application of the ratio 12:1 yields a result of 14.5 members or, rounded up, 15 members. In other words, the same result.

23. To insist upon such a priori linkages would remove the benefits of the methodology of proceeding from the periphery to the core. It is designed to seek to ensure that we make progress, to unlock the situation in which the working group has found itself up to the present time, and above all to try to ensure that the various parts of the expansion question are not held hostage to each other.

24. Having made these points, it may be helpful to make a few points, too, about permanent membership.

25. In considering an expansion in the permanent membership category, the following basic points are now the subject of considerable convergence of views:

(a) The present permanent five will remain;

(b) For reasons consistent with the concepts in the Charter and with reality, Japan and Germany must be added;

(c) There must be a developed/developing country or North/South balance within the permanent membership, a balance that is, at present, deeply lacking;

(d) This suggests that three other permanent members, which are not from the industrialized North, should also be added.

26. If these perspectives were to be followed it is easy to see that the permanent membership of the Council in the future would be made up of 10 members. These, together with the 15 elected members produced by a ratio of 12:1 would provide a Council of 25 members.

27. The specific issue of permanent membership of the Council is mentioned here because of its connectedness to the issue of an expansion of non-permanent members; the main subject of the present paper. An increase in the number of non-permanent members, is an intrinsic value and a necessity.

28. The Working Group must start to concretize its work. It can do this by developing an agreement on an expansion in the non-permanent membership of the Council.

29. The Australian delegation hopes that the issues advanced in the present paper on this subject, by way of illustration, will help foster practical discussions and negotiations leading towards consensus.

ANNEX XIV

PERIODIC REVIEW CLAUSE

Germany: working paper*

The mandate of the Open-ended Working Group on the reform of the Security Council is defined in General Assembly resolution 48/26 of 3 December 1993 as "to consider all aspects of the question of increase in the membership of the Security Council, and other matters related to the Security Council". In the preamble to the resolution the Assembly recognized, inter alia, the need to review the membership of the Security Council and related matters in view of the substantial increase in the membership of the United Nations, especially of developing countries, as well as the changes in international relations.

Based on that mandate, reform efforts are aimed at achieving a comprehensive and genuine reform, embracing at the same time so-called cluster II ("other matters related to the Security Council") and cluster I ("increase in the membership of the Security Council") issues. In Germany's view, the latter implies an increase in both the permanent and the non-permanent category of membership. Any other result would remain partial. It would ignore the new realities and changes in international relations as mentioned in resolution 48/26. Submissions in document A/49/965 of 18 September 1995 indicate that only a small minority of States so far wishes to exclude an increase in the category of permanent membership.

In the same document, several countries have proposed to re-examine or to review periodically the new composition of the Security Council as an element of an overall agreement (Nordic countries, Movement of Non-Aligned Countries). Germany shares their view and has stated this on several occasions. In Germany's view, a periodic review clause will represent an essential element for reaching general agreement on a comprehensive reform package:

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* Previously issued as A/AC.247/1996/CRP.15/Rev.1.

Benefits

1. The periodic review clause will guarantee that an increase in both membership categories is not irreversible. All new permanent and non-permanent seats would be subject to re-examination after a certain period. As far as new permanent members are concerned, their status will be permanent but not eternal.

2. New permanent members will become accountable to the general membership. The performance and the action of any new permanent member will be taken into account at the moment of review. Any new permanent member could be replaced.

3. Countries whose aspirations have not been taken into consideration for a seat in the Security Council keep their chance to improve their status. They may demonstrate their qualification for a better status, including the possibility of permanent membership, at the moment of the review of the composition of the Council.

4. A periodic review will allow the membership to re-examine the composition of the Council against the background of possible new political and economic realities. This flexibility would better meet the needs of a political decision of this kind than any "objective" criteria, be they based on the size of population, financial contributions or military troop contributions.

5. Altogether, the periodic review clause would allow a far-reaching, genuine reform while maintaining the possibility of adapting the composition of the Security Council in the future to new and changing realities.

Terms of reference. Field of application

6. A review should address all aspects of a reform package. The elements of a comprehensive reform package are closely interlinked. It would therefore be difficult to exclude any of them from a periodic review. This refers to all elements contained in clusters I and II that will become part of the package.

7. A periodic review clause would not restrict rights and obligations held by the existing five permanent members.

8. New permanent members would not be entitled to use a possible veto right regarding the review results.

9. The review would take place after 15 years. Fifteen years is the average of existing proposals, which have mentioned periods of 10, 12, 15, 20 or 10-20 years. A period of 15 years is less than half of the time that has gone by since the last change in the composition of the Security Council (1965-1996). Fifteen years would be a foreseeable and at the same time stabilizing time period with regard to any new composition of the Council.

The period would start after the entry into force of the changes agreed upon in the comprehensive reform package.

10. The review would be compulsory and be automatically put on the agenda of the General Assembly. An eventual new composition of the Council would have to be decided within two years, that is, at the latest at the end of the following session of the General Assembly.

Possible reading

11. An appropriate place for a periodic review clause would be Article 23 (4, 5 new) of the Charter of the United Nations. Article 23 would read as follows:

Article 23

(1) [to be adapted]

(2) [to be adapted]

(3) Each member of the Security Council shall have one representative.

(4) New permanent members who are not the original five permanent members are subject to a periodic review in accordance with Article 108. The review process is compulsory and will take place after fifteen years. Ratification of the review result does not necessarily require ratification by the new permanent members.

(5) Other changes regarding composition and working methods of the Security Council than those mentioned in paragraph 4 are subject to the same periodic review.

12. This reading is a preliminary proposal. The final wording is subject to further discussion.

13. In the same context, other Articles of the Charter may also need to be amended. Furthermore, details of the review process could be included in a resolution of the General Assembly.

ANNEX XV

PROPOSAL FOR REFORM OF THE SECURITY COUNCIL

Belize: working paper*

I. SUMMARY

1. PM = Permanent Member. ANY State is eligible.

NPM = Non-PM.

P5 = The five PMs as of 1945. No change of status.

FPM = Financial (% budget contribution) PM.

2. This scheme is a compromise between proposals for:

(a) Retention/expansion of PMship;

(b) Abolition of PMship;

(c) Expansion of non-PMship. Frequent rotation;

(d) Extending PMship to additional named States.

Principles of (a) democracy, (b) economy/efficiency < limit tenure and veto and < convergence of P and NP categories.

3. Optional group/regional sharing (Belize paper) applies to ALL categories.

4. Veto = two [or three] concurring blocking votes by PMs in one or more category.

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* Previously issued as A/AC.247/1996/CRP.17.

5. Numbers of PMs:

Alt. 1	No.
- P5	5
- 1x4 regions; excluding the Group of Western European and Other States	4 (regional election)
- FPMs; excluding the United States of America	2

Alt. 2	No.
- 2x5 regions; including P5; excluding the United States of America	9 (regional election)
- FPMs; including the United States of America	3

6. Tenure:

- FPMs - as long as qualified.

- Non-P5 PMs - three years.

7. Total numbers rationalized (impact of #2-#6, above):

Alt. 1

- 11 PM + (9 to 11) NPM = 20 to 22.

Alt. 2

- 12 PM + (9 to 11) NPM = 21 to 23.

II. INTRODUCTION

8. It is suggested that:

> "We cannot escape the overdue obligation ... to rationalize the structure of the Security Council, so that the veto is tamed and equity and democratization take centre stage. ... (a) [All] regions [should] obtain balanced and equal representation as permanent members; small countries [should] be brought into the Council's decision-making; and (c) consideration [should] be given to such devices as multipartite seats or constituency groupings." (A/AC.247/1996/CRP.1, 11 January 1996, para. 20, quoting the statement of the Honourable Dean O. Barrow, Deputy Prime Minister of Belize, during the general debate at the fiftieth session of the General Assembly, 25 September 1995.)

9. The foundations of this objective are two principles, firstly, that of democracy. This derives from the fact that central to General Assembly

resolution 47/62, instituting the process of reform of the Council, are the requirements embedded in its title that representation on the Council should be equitable and that there should be an increase in the body's membership. These requirements inevitably respond to a variety of undemocratic factors related to the Council, including the unelected nature of the present permanent membership; the eternal nature of tenure of those members; historical non-participation on the Council of nearly 50 per cent of the Organization's members, notably smaller and weaker States, from which much of the business of the Council is derived; the veto, and oligopolistic aspects of the maintenance of peace and security.

10. This anti-democratic trend was understandable in the light of the uncertain global military situation prevailing while the Charter was being drafted. This was compounded by the volatility of the security situation at that time and during much of the lifespan of the United Nations. A seriously aggravating feature was undoubtedly the unsettled international political situation, marked by the existence of the allegedly bipolar pattern in international relations. In recent years, there have been several far-reaching changes in that pattern and in the security situation. The Security Council, the General Assembly and other organs have also taken very major steps not only to enshrine democracy as a component of internationally protected and domestically provided human rights, but also to reaffirm its central role in international relations and the life of the Organization. (See the report of the Secretary-General on support by the United Nations system of the efforts of Governments to promote and consolidate new or restored democracies (A/50/332 of 7 August 1995) and the statement by the delegation of Belize in the General Assembly debate on support by the United Nations system of the efforts of Governments to promote and consolidate new and restored democracies, agenda item 41, on 13 November 1995 (see A/50/PV.56).) It is evident that, in resolution 47/62, democracy is the ingredient which the General Assembly has mandated should be infused into the Council and related processes.

11. The second principle is that of economy and efficiency. This principle also relates to the changed pattern of international relations and the widespread adoption (with varying degrees of alacrity and commitment) of liberal economic tenets. This principle pervades all aspects of the life of the Organization, particularly the current processes of global restructuring and reform, including that of the United Nations. As the Secretary-General noted in his statement of 6 February 1996 on the financial situation:

> "Certain basic structural issues need to be addressed comprehensively if the Organization is to be responsive to the changing international situation. These include the composition and procedures of the Security Council."

The principle postulates that the main watchwords should be the need to economize and to devise efficient mechanisms and processes.

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III. BROAD OVERVIEW OF VARIOUS PROPOSALS FOR REFORM

A. Introduction

12. It is clear that, even if, pursuant to these two principles, there is a consensus favouring particular reforms of the Council, any of the present permanent members can effectively block change by exercising its right to veto any of the Council's decisions. Nevertheless, since, in good faith, all the Organization's voting members approved the adoption by consensus of resolution 47/62, it is the burden of the present paper that there is a middle path between the diverse and seemingly irreconcilable proposals that have been made. Indeed, it is respectfully contended that the possibly common flaw in most of those proposals is their failure rigorously to apply the two principles mandated by the resolution.

B. Retention and expansion of permanent membership

13. At one extreme are various proposals the thrust of which is that the existing permanent five should retain their status of eternal membership, which should be extended to a variety of additional beneficiaries on a number of bases, including size of population, size of economy, demonstrated commitment to global peace and security, and global and/or regional importance. These ideas are to be warmly commended. However, the application of any set of apparently objective criteria is open to subjectivities. Furthermore, although many of these criteria encompass the principle of democracy, several fail to address the principle of economy and efficiency.

C. Abolition of permanent membership

14. Proposals that permanent membership should be abolished comport with the principle of democracy and might crudely comport with the economic principle. Nevertheless, the reality is that peace and security is an occupation that is resource-intensive in terms of personnel, experience and finance. These proposals may therefore fail the test of efficiency to the extent that they do not identify a modality for effectively identifying a core of Council members morally or legally expected, by virtue of their status and its attendant privileges and/or prerogatives, to assume field responsibilities and leadership in the Council's decision-making.

D. Continuation of permanent five plus frequent rotation of some non-permanent members

15. The last-mentioned proposals bear some resemblance to the suggestion that permanent membership status should be frozen and, in place of additional new permanent members, there should be systems of frequent rotation of a specified number of seats by special non-permanent members. These latter members would be identified by criteria to be devised. It is argued that occupation by such larger States of a specified number of non-permanent spaces would free up the remaining slots for the masses of presently disenfranchised smaller and more

disadvantaged States. Here, again, possibly selective or subjective application of even objective selection criteria poses a problem that challenges the democracy principle.

E. Extension of permanent membership to further named States

16. The same may be said of proposals that the existing system of permanent membership should be extended by according that status to specific additional named States. Although those proposals comport with the desire for economy, they are not entirely in harmony with democracy. An additional problem with such proposals is that, in the absence of safeguard devices, future problems of reductions of state territory and population and other changes provoking issues of State succession could bedevil this modality of membership, rendering it both undemocratic and inefficient.

IV. SUGGESTED REFORMS

A. Introduction

17. It is recommended that the dictates of democracy and economy/efficiency require the closest possible approximation and convergence of both existing forms of membership, namely, permanent and non-permanent membership. Those principles and, in turn, such convergence would appear to necessitate restructuring of the institution of the veto. While practical reality appears to militate against proposals limiting tenure of the permanent five, such limitation is justifiable in all other cases. Democracy (along with considerations of equity) and economy/efficiency justify permitting groups of States in the same neighbourhood to pool their resources and offer themselves as joint candidates in elections to the Security Council.

B. Optional sharing of seats

18. In a related paper, it has been recommended that:

> "On an optional basis, regional arrangements or agencies or ad hoc groups of members of the United Nations should be at liberty to share single seats on the Security Council." Submission of the delegation of Belize, "Shared seats on the Security Council", submitted to the Working Group on Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council on 29 January 1996.

In that submission, it was suggested that the Council could certify particular regional arrangements and agencies as notionally satisfying Chapter VIII of the Charter for the purposes of common Council membership. Alternatively, two to five States satisfying specified criteria for adjacency would be automatically qualified without the requirement of Council certification. The submission also proposed details about voting, Council committee membership, termination and certain limitations in relation to those arrangements/agencies or groups that became members of the Council.

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19. It was suggested that the proposals were justified on the basis of:

(a) Such Charter provisions as Article 51 and Chapter VIII;

(b) The spirit of international cooperation that pervades the Charter and the 1970 General Assembly Declaration on Friendly Relations;

(c) The recent practice of peace-keeping by regional arrangements/agencies and solidarity in security matters;

(d) The dictates of economy and efficiency, particularly in view of the cost-sharing and cost-reduction the proposal stimulates, since only huge delegations beyond the means of the vast majority of States can now effectively participate in the demanding work of the Security Council;

(e) The preoccupation of the international community, including the Council, with the security of small States;

(f) The increase in beneficial system-improvement participation by small and weak States;

(g) The enhancement and improvement of transparency and multi-directional flows of information.

20. It was noted that there were several potent analogues to the ideas contained in the proposal. These included:

(a) The systems of formal organized constituencies in certain international financial and development assistance/environment regeneration institutions;

(b) The widespread growth of regional security institutions;

(c) The proliferation of regional agencies in the context of the radical redefinition of the concept of security.

21. As noted, this concept is animated, inter alia, by the principle of economy/efficiency. On the basis of fairness and democracy, it is recommended that this modality of membership should be optionally available to both permanent and non-permanent members. The sharing of seats facilitates participation in the Council of a much larger number of States than hitherto possible without encumbering the process by the multiplication of voices and votes and the addition of noise and clutter.

C. Approximation and convergence of both forms of membership

22. In our view, especially for reasons of democracy, but also because of economy/efficiency, permanent membership should be available to ALL members of the Organization, and no further attempt should be made to devise qualification criteria. This is a logical consequence of and, at the same time, facilitates approximation and convergence of both forms of membership. Universal

eligibility for both forms of membership is also facilitated by seat sharing, since aggregations of States are better able to compete for permanent membership. In addition, approximation and convergence of both forms of membership, along with seat sharing, advances the beneficial objectivity of the proposals summarized in paragraphs 13 to 15 above. We now turn to the collateral issues of financial permanent membership, tenure and the veto.

1. Financial permanent membership

23. Notwithstanding the notion of democracy, it is recommended that there should be introduced a new subcategory of financial permanent membership whereby individual States would qualify for membership on the basis of substantial contributions to the Organization's budget. This is strongly motivated by the desperate financial emergency presently being undergone by the Organization. It is clear that several of the proposals for naming specific States for membership are thinly disguised efforts to obtain infusions of funds into the Organization's coffers. It is possible that the probable consistency of that motivation with the economy/efficiency principle is a substantial justification for facial violation of the democracy principle.

2. Tenure

24. Since the notion of financial permanent membership has an undemocratic element, in the crucial matter of the tenure of the status it should be restricted. It is therefore proposed that the tenure of that status should not be eternal, but for as long as the member is qualified. Furthermore, if additional States eventually satisfy the financial criteria, a system for rotation might have to be considered.

25. It is also proposed that the tenure of the new general class of permanent members should be three years, thus somewhat approximating non-permanent tenure (two years), while permitting any new permanent member that has made an investment related to its membership to fulfil its responsibilities.

26. In order to permit groups or individual members to continue to perform such responsibilities, on the one hand, and so as not to deny the members of the new general class the incidents of membership enjoyed by the permanent five, on the other hand, it is recommended that permanent (and non-permanent) members should be able once to succeed themselves, that is, to enjoy successive terms.

3. Veto

27. What would continue to be the most attractive feature of permanent membership to its possessors, despite limited tenure, is the ability to exercise the veto. It is proposed that, pending the ultimate abolition of the veto, the entitlement to the veto should be so modified that it is available only where a minimum of two [or three] permanent members concur in its exercise. We believe that the suggested alternative of restricting the use of the veto in certain areas (e.g. Chapter VII action) is excessively restrictive, especially in view

of the possibility that there might be future cases arguably falling under that Chapter that the international community and/or the Council might deem require action by the Council.

V. NUMBERS

A. Permanent members

28. Two alternative models are proposed. In the first, (a) the permanent five would be unchanged; (b) there would be one additional permanent member assigned to each of the five United Nations regional groups except Western European and Other (already represented by France and the United Kingdom of Great Britain and Northern Ireland); and (c) there would be financial permanent members, which would be likely to be two in number (not including the United States of America, already included under (a)).

29. In the second model, (a) on the basis of democracy and equality, each regional group would return two permanent members; the existing permanent five would be deemed to be included in the quota of their respective groups except in the case of the United States of America; (b) there would be three financial permanent members, including the United States.

30. It would be probably wisest to return regional members in elections conducted at the United Nations exclusively among regional members.

B. All members

31. Under both alternatives, there could be 9 to 11 non-permanent members, bringing the total membership to 20 to 22 and 21 to 23. It should be stressed that while it might appear that these schemes involve a reduction in the number of non-permanent members, the approximation and convergence of both categories should result in a substantial increase in participation. At any rate, it might be decided to provide for a larger gross number of members in that class.

ANNEX

Shared seats on the Security Council

I. INTRODUCTION

1. The purpose of the present annex is to elaborate on certain aspects of the proposal that, on an optional basis, regional arrangements or agencies or ad hoc groups of members of the United Nations should be at liberty to share single seats on the Security Council.

II. DETAILS

A. Basic structure

2. There are two alternatives:

(a) From time to time the Council will certify that a regional arrangement or agency is qualified for purposes of membership of the Council. It is expected that, with the widespread popularity of those institutions, the Council will readily certify many of the arrangements or agencies presently in cooperation with the United Nations or which have conducted regional peace-keeping and similar exercises. Upon presentation to the Council by one of the members of a document signed by the representatives of all of the members of the certified arrangement or agency attesting to their desire to participate as a group in membership of the Council, the presenting member will be permitted to offer itself as a candidate representing a group in the next election to the Council;

(b) Between two and five adjacent States would have the liberty of offering themselves as a candidate for group membership of the Council. The representatives of the participating members would all sign a document attesting to their desire to participate as a group in membership of the Council. The member presenting that document would be listed as a candidate representing a group in the next election to the Council.

3. Adjacency. In the second alternative, the following groups of States would satisfy the adjacency criterion:

(a) Two or more mainland States, each of which is contiguous to at least one other member of the group;

(b) Two or more island States from each of which an imaginary uninterrupted straight line can be drawn to at least one other member of the group;

(c) A combination of one or more mainland and one or more island States that satisfy the requirements of (a) and/or (b).

4. Head of delegation

(a) In the first alternative, the chair of the group and head of delegation would be the presenting Member State;

(b) The chair of any ad hoc group and head of delegation would be the presenting Member State;

(c) At any time, the States participating in alternatives (a) or (b) could designate another State as the chair of the group and head of delegation.

5. Voting. Only the current chair and head of delegation would have the right of speaking and voting. Although for the purpose of counting votes in the Council, any such vote would be deemed to be on behalf of the voting member only, the other members of the group would be bound by it.

6. Security Council Committee membership. A Security Council Committee member from any State member of a group would represent all members of the group. It would be expected to share information and consult with the other members of the group.

7. Termination. Any participant in alternative (a) would become ineligible to continue participation upon the date on which its membership of the arrangement or agency terminates. Any participant in alternative (b) would be at liberty to withdraw from participation by written notification to the President of the Council.

B. Limitations

8. Number of members of groups. There would be no limit to the maximum number of participants in alternative (a). In alternative (b) the maximum number of participants would be five, the number of seating places in the Council chamber presently assigned to each delegation.

9. Number of groups. If it is desired to limit the number of groups, various formulae could be devised.

C. Probable beneficiaries

10. Subject to any limitations, it is probable that potential beneficiaries of this modality of membership could include States from some seven or eight major subregions.

III. JUSTIFICATION

A. Charter of the United Nations

11. The critical importance of the subregional dimension in international peace and security is rooted in the Charter, Article 51 of which recognizes the

saliency of collective self-defence notwithstanding the Charter's establishment of enforcement by the global Organization. This theme is further elaborated by Chapter VIII, which acknowledges the potential importance to peace and security of regional agencies and arrangements. The proposal outlined in the present document is entirely consistent with those provisions, as well as with the spirit of international cooperation which pervades the Charter and which inspired the General Assembly's 1970 Declaration on Friendly Relations.

B. Recent practice

12. In recent years, a very substantial proportion of peace-keeping exercises has been conducted by regional agencies or arrangements. Examples are the recent actions by the North Atlantic Treaty Organization (NATO) in the former Yugoslavia; by members of the Economic Community of West African States (ECOWAS) in Liberia; by members of the Caribbean Community (CARICOM) in Haiti; by members of the Organization of Eastern Caribbean States (OECS); and of the CARICOM in Grenada. These recent trends might resemble earlier actions by members of the Organization of American States (OAS). The solidarity in security matters that has epitomized those actions is the thrust of the proposal of the present document, as is the repeated emphasis by the Secretary-General that peace and security should increasingly be viewed as a shared endeavour between the global Organization and regional agencies.

C. Economy and efficiency

13. Apart from the relevancy and efficacy of peace-keeping from within a region, such activities are often cost-effective and economically efficient. This is strongly underscored by the dire financial condition of the United Nations. In view of the financial dependence of the Organization, it is clear that it is essential to devise modalities for cost-sharing. Since very few States are able to afford to maintain the large delegations (of up to 15 persons) required to service a Council member, this proposal addresses the issues of economy and efficiency.

D. Security concerns of small States

14. A crucial aspect of many of the situations of conflict and security in the twentieth century has been the targeting of small and weak States by aggressor States. It is therefore fair and rational to facilitate the participation on the Council of small States.

15. In fact, during the past 15 years or so, small States, which were usually unrepresented in the Council, have been critically involved in many of the matters of the most crucial importance dealt with by the Council. Examples have been destabilization, mercenaries and insurrection (Maldives, Comoros, Grenada); nuclear testing and passage of nuclear waste (Pacific, Caribbean); and regional conflict (Central America).

16. The locales of many of the unrepresented small States are also included among the world's most strategic areas.

E. Improvement of the Council's decision-making

17. It has been noted that the emergence to independence of many small States and their immediate acceptance by other nations and their constructive involvement in international life have helped to substantiate the theory that each unit in the international system plays an important role regardless of its size and wealth. Recent illustrations of the high quality of inputs of the smaller States are the contributions of members of the Alliance of Small Island States to the work products of the Barbados Conference on the Sustainable Development of Small Island Developing States and the Conferences of the Parties to the Biodiversity and the Climate Change Conventions.

It has been further noted that the recognition of the personality of such small entities adds to the diversity necessary for the healthy growth of human society and international law. Expressions such as the "family of nations" and the "international community" are quite common. A small family of creatures, all of fairly advanced ages and with preordained limitations on attributes such as size and wealth, however, has the germs of atrophy and decay. An international family consisting of members with a wide variety of attributes is more likely to grow.

18. It is submitted that, in addition to the important contributions which, as a result of this proposal, small States will be enabled to make in matters directly affecting them, their input will be invaluable in decision-making on the establishment, implementation and modification of Security Council sanctions regimes.

F. Information and transparency

19. Although there are ongoing efforts to improve transparency of the Council's decision-making, it is clear that much more needs to be done. This will be facilitated by increasing the number of States with access to inside information without encumbering the process by the multiplication of voices and votes and the addition of noise and clutter.

20. At the same time, the Council would benefit by having access to a larger pool of sources of information from the members of the group or the relevant subregional organizations.

IV. ANALOGUES

A. Organized constituencies

21. In the economic field, the modality of seat sharing is well established and works effectively in such agencies as the Global Environment Facility, the International Monetary Fund (IMF) and the World Bank. In those agencies, the

members of the group are actually represented and bound by the actions of the voting member. However, under the present proposal, this would not be the case.

22. Besides, this proposal works no harm to national sovereignty and realistic notions of pride and well-being, while being entirely consistent with security, both national and global.

B. Growth of regional security institutions

23. It is relevant that, in recent years there has been a steady increase in the number of agencies with important roles in the maintenance of peace and security. In addition to NATO and the Rio Pact in the Americas, reference has been made to activities under the aegis of such economic integration agencies as ECOWAS, OECS and CARICOM. Additionally, there have been established the Organization for Security and Cooperation in Europe (OSCE), the ASEAN Regional Forum, the Caribbean Regional Security System and the South Pacific Forum. All of these trends are consistent with the proposal herein.

C. Proliferation of regional agencies

24. In recent years, the Council has been obliged closely to look at the interaction of conflict/security with the global and regional economies, the environment and social, physical and other institutions and infrastructures. Consequentially, there have been proposals for vesting in the Council formal responsibility for broad new genres of "security" in those spheres. It is arguable that those proposals are undergirded by the extraordinary explosion of often overlapping agencies for regional cooperation in economic integration; trade; border activities; shared natural resources, especially in river basins and mountain ranges; and miscellaneous activities (e.g. the Association of Caribbean States). This demonstrates that time is ripe for the very modest form of cooperation that is proposed in the present document.

ANNEX XVI

PERMANENT REGIONAL REPRESENTATION

Malaysia: working paper*

1. The goal of reforming the Security Council is to arrive at a restructured and modernized Council, both in form and content, prepared to address the imperatives of the twenty-first century.

2. The present composition of the Security Council places full control of the Council's actions and decisions on the permanent five with little balance or influence in favour of the non-permanent members. Decision-making is thus very much the prerogative of the permanent five. A strong feature of the Council's performance over recent years is the near total ability of permanent members, individually or in concert, to determine decision-making. The veto is seldom used openly but the threat of its use is a permanent feature in arriving at decisions. Without criticizing the non-permanent members, it can be concluded that non-permanent members do not really make a difference on the big issues. The effect of this is that the permanent five determine what, when and where international peace and security are at stake.

3. The Security Council is facing sea changes internationally, including developments that are related to changes in the global power equation. Multilateral systems, especially the United Nations, need to manifest democratization in the decision-making processes and this is in need of reform to restore effectiveness, credibility and legitimacy.

4. The relationship between the Security Council and the general membership must be redefined. Article 24, which empowers the Council to act on behalf of the general membership, is not a carte blanche. While the article is silent, it

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* Previously issued as A/AC.247/1996/CRP.18.

is clear that the general membership embodied in the General Assembly retains residual powers and that actions of the Council are not to be without oversight of the Assembly.

5. Ultimately, to achieve democratization in the international system, all the nature and combination of permanent membership and aspects of decision-making, including the role of the veto, would have to be re-examined. Accountability to the general membership must be factored in without cutting into the authority of the Council. Even if countries are permanent members, the General Assembly ought to exercise oversight on their performance as well as the universal values they are expected to uphold.

II. CONCEPT OF PERMANENT REGIONAL REPRESENTATION

6. Permanent regional representation is a form of representation in the Security Council where a number of members represent a specific geographical region. Essentially the proposal seeks to address the need for an equitable and balanced geographical representation.

7. In political and economic context, Asia, Africa and Latin America and the Caribbean are regions of developing countries. These three regions require permanent representation. It is also conceivable that the industrialized countries are an identifiable region. Japan and Germany are in that group.

8. It is proposed that each developing region be allocated two seats. Each seat will clearly represent countries of the region and not purely that of a country.

9. A regional mechanism will decide on how the seats are to be allocated. The right of any country in a region to serve in the permanent seat is always maintained. In practice selection will take into account important factors such as contribution to United Nations efforts, such as peace-keeping, upholding universal values, including human rights, size, population, global involvement and capacity to pay. Regional permanent members together with other members in the region will share the financial costs of regional representation in the Security Council.

10. The representatives will continue to represent the region until other countries in the region are chosen in replacement.

11. Permanent regional members shall exercise all rights similar to other permanent members.

12. All members must fulfil the criteria for membership consistent with the relevant provisions of the Charter.

13. Given the objective of democratization and taking into account the veto of the five, the introduction of the idea of regional permanent membership does not amount to discrimination.

III. OTHER CONSIDERATIONS

14. Current permanent members only represent themselves and not anyone else. The system devised 50 years ago vis-à-vis the five countries as permanent members cannot be changed, without their consent, which is not likely in any event. But given a groundswell of international interest, this does not mean that this situation cannot be re-examined. This does not also preclude the consideration of a new form of permanent membership - regional permanent representation. The Charter makes no reference to regional representation but the concept of regionalism was recognized even in 1945 as reflected in the appreciation shown for regional organizations in Chapter VIII of the Charter. Its implicit recognition is reflected in the regional process preceding elections for the Security Council. One has to recognize developments towards identifiable growth poles revolving around regions - stability of States are linked to stability of regions; stability and cooperative efforts within regions reinforce stability of States and eliminate problems of asymmetry and hegemonic tendencies that act against regionalism and enhance competitive nationalism and the competitive concept of national security that had long dogged regions. Regionalism has developed as it has proven to serve the interest of all, the big, the small, the weak and the strong.

15. Permanent regional representation seeks to remove the claim that countries can have permanent rights to the Security Council without accountability to others and the regions they belong to. Permanent regional representation will underline the increasing untenability of permanent members who are neither selected by regions nor the general membership and, worse, non-accountable.

16. The Security Council is not an arena for developed and developing countries as such, but it cannot be denied that issues in the Council dealing with international peace and security are either virtually those related to areas in developing countries or, if not, are always given determination by way of the political proclivities of countries in terms of developed and developing.

IV. SIZE OF A REFORMED COUNCIL

17. The African paper proposes 25, while the Movement of Non-Aligned Countries proposed no less than 11 non-permanent seats, if agreement on permanent seats was not possible.

18. It is important to emphasize that each developing region be given two seats to balance a Council that will be overloaded with industrialized countries if Japan and Germany are admitted. With 8 new permanent members and 5 existing and 10 existing non-permanent, it would alone total 23; and there should be 7 new non-permanent making a total of 30 members.

19. Thirty members out of 185 countries is not large. The Council can act effectively with 30 members.

V. VETO

20. Genuine reform in the Security Council must include reform of the veto. The veto is obsolete and politically untenable in an increasing number of cases, but as it cannot be removed because the present permanent five will not relinquish the veto, the reformed veto must be seen to be increasingly a unique act of concerted action under extraordinary circumstances and not as it is now, the prerogative of five countries.

21. There is a universal clamour to reform the veto, even if it cannot be eliminated.

ANNEX XVII

REFORM OF THE SECURITY COUNCIL

Norway: working paper*

1. The decision unanimously taken by the membership to set up this Working Group was a reflection of the fact that all members of the United Nations considered it necessary to enlarge the membership of the Security Council. The two years of work of the Working Group has reinforced this broad agreement among Member States that the Security Council should be enlarged with a number of new seats, in order to better reflect the realities of today's world. In order to ensure continued and strengthened support for the Security Council in discharging the important duties assigned to it by the Charter, we need a Council with enhanced representativity and legitimacy.

2. In spite of the broadly shared wish for reform, discussions so far have not really brought us closer to the general agreement we need on this crucial issue. We believe that flexibility will now be necessary on the part of all of us. We also feel that there are a number of interesting elements in the many proposals that have been tabled, elements of which we should build in trying to bring the process forward.

3. As the delegation of Norway has had the opportunity to state in this Working Group on earlier occasions, we believe that a balanced approach to this question requires an enlargement with both permanent and non-permanent seats.

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4. The founding Members of the United Nations as well as all other Member States have freely decided to adhere to the Charter, and have agreed to the principle of the Security Council being a representative body with limited membership and particular authority and responsibility.

5. The structure that was established for the Security Council in the Charter has contributed to conferring on the Council the authority and legitimacy essential for the fulfilment of its primary responsibility: the maintenance of international peace and security. Another structure, without permanent members and the particular rights and obligations pertaining to this status, could have led to matters of peace and security being dealt with elsewhere. Unilateralism would have replaced multilateralism. This is also the reason why attempts to abolish the category of permanent seats would not only be unrealistic, but would also tend to impair the ability of the Security Council to discharge its duties.

6. An increase in the number of both permanent and non-permanent seats is therefore the logical outcome of a process of reflection as to how the composition of the Security Council, with its existing two categories of membership, could best reflect present political and economic realities.

7. The factors that should guide us in the increase in the number of permanent seats are the following: (a) the capacity and the readiness of Member States to contribute to the maintenance of international peace and security and to the other purposes of the United Nations; and (b) the need for a more equitable and balanced geographical representation.

8. Considering this need for a more equitable and balanced geographical representation, as well as the new political realities, we suggest the following:

(a) The permanent membership should be increased by five new seats;

(b) Three new permanent seats should be for developing countries of Africa, Asia and Latin America;

(c) Two new permanent seats should be for industrialized countries.

The allocation of the new permanent seats to individual countries should take into account the aforementioned factors. It is also essential, not only for the possibility of reaching a general agreement on this issue, but also with regard to the future legitimacy of the Council, that the regions concerned be instrumental in finding solutions.

9. With regard to the three new permanent seats for the developing countries, discussions in this Working Group so far indicate, in our view, that one realistic option would be a regionally based rotational system, establishing permanent regional rotating seats.

10. Within the framework we suggest, it would be for the countries in the regions to decide how their new permanent seat should be allocated. This could be to one single country; it could be to a few countries on a rotational basis; or it could be on another basis the region might choose, the principle remaining that each region decide for itself.

11. We have noted that a number of Member States during the last session of this Working Group expressed interest in further discussing a model for enlargement of the Council along the lines the delegation of Norway has suggested above. We therefore believe that a more focused discussion on this approach in the time ahead might prove to be fruitful.

12. Finally, while care should be taken not to impair the efficiency of the Security Council, an enlargement of the Council by five new permanent seats as suggested should be complemented by an enlargement with a number of new non-permanent seats, in order to maintain a reasonable balance between the number of permanent and non-permanent seats on the Council, and to enhance further the representativity and the equitable geographical distribution of its membership.

ANNEX XVIII

COMPOSITION AND SIZE OF THE SECURITY COUNCIL

DECISION-MAKING PROCESS IN THE COUNCIL, INCLUDING THE VETO

WORKING METHODS AND PROCEDURES OF THE SECURITY COUNCIL

OTHER MATTERS RELATED TO THE SECURITY COUNCIL

Ukraine: working paper*

1. Ukraine is convinced that the outcome of the work of the Open-ended Working Group is of great importance to the future of the United Nations. A revitalized and reformed United Nations is impossible without a more representative and open Security Council. In the view of Ukraine, the enlargement of the Security Council will enable it to function in a more transparent and democratic manner. Delays in resolving this matter impair the United Nations ability to respond adequately to the challenges of the times and do nothing to enhance the Organization's prestige. The lack of tangible progress in the work of the Group also has an adverse effect on the negotiations on all other aspects of the Organization's future activities. The work of the General Assembly working groups on the financial situation of the Organization, on the strengthening of the role of the Organization, on an agenda for peace and on an agenda for development has for all intents and purposes been blocked.

2. The reform of the Security Council should be carried out in strict observance of the purposes and principles and other basic provisions of the Charter of the United Nations.

3. At present, in the opinion of Ukraine, there is a real opportunity to reach an agreement in principle on a number of matters that have been under consideration by the Open-ended Working Group since its establishment. The

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reaching of an agreement will have extremely important political and practical consequences for the work of our Group. First and foremost, such an agreement would signify that, in their work, delegations had progressed from the stage of explanation of their positions to the stage of practical negotiations.

4. The Open-ended Working Group's two previous reports reflected the agreement by all States Members of the United Nations that the membership of the Security Council must be increased. Unfortunately, it was not possible to reach an agreement on the parameters and configuration of such an increase. At the same time, there was a significant convergence of views among delegations in the Working Group regarding the future size of the Security Council. An absolute majority of delegations were in favour of expanding the Council to 23 to 25 members.

5. In this regard, Ukraine considers that, at the current stage, the Working Group could recommend that the General Assembly consider the question of increasing the membership of the Security Council to 25 members, which would provide a framework for future negotiations in the Working Group. Such a decision would not predetermine the outcome of negotiations on whether or not the number of Council members in both categories - permanent and non-permanent - should be increased and, if so, in what proportion.

6. Ukraine believes that consideration should first be given to increasing the number of seats of the non-permanent members of the Security Council, bearing in mind the principle of equitable geographical distribution as set forth in Article 23, paragraph 1, of the Charter.

7. While it is not in principle opposed to an increase in the number of permanent members of the Security Council, Ukraine considers that the number of Council members in this category could be increased by including those States that make an exceptional contribution to the work of the United Nations and the implementation of the Organization's functions, in accordance with universally recognized criteria. In this regard, Ukraine supports the desire of Germany and Japan to become permanent members of the Security Council, while retaining the principle of equitable geographical representation of States in the Council as a whole.

8. Ukraine considers that, if 2 additional seats for permanent members of the Security Council are created, the number of non-permanent members should be increased by 8, which would make a total of 18 non-permanent members. The additional seats for non-permanent members could be distributed as follows:

- four (4) seats for Asian and African countries;
- two (2) seats for the regional group of Latin American and Caribbean countries;
- one (1) seat for the regional group of Western European and other countries;
- one (1) seat for the regional group of East European countries.

Thus, the Ukrainian proposal may be expressed by the formula "2 + 8".

9. Ukraine believes that the creation of eight non-permanent seats, each of which would rotate among three or four States (for a total of 24 to 32 States) would enable countries that make a substantial contribution to United Nations peace-keeping activities and the financing of the Organization, and countries that represent the majority of the world's population, to assume greater responsibility in the implementation of the provisions of the Charter of the United Nations. Of course, the precise criteria and the mechanism for selecting these 24 to 32 States must be agreed by Member States and adopted by the General Assembly. On the whole, Ukraine's conceptual approach to this question is similar to the approaches adopted in the Open-ended Working Group by the delegations of Italy, Spain and Mexico.

10. At the same time, the States claiming the 8 new seats with more frequent rotation would not seek to occupy the 10 seats currently allocated to non-permanent members of the Security Council. In our view, this would make it possible for small Member States to be elected to the Council on a more frequent basis.

11. In order to ensure that greater account is taken of the interests of small countries, Ukraine proposes that the regional groups should be given the right to determine themselves how many of the non-permanent seats in the Security Council available to the countries of a given region would be subject to the rule of more frequent rotation.

12. The implementation of Ukraine's proposal would make it possible to increase the representation of the developing countries in the Security Council to 13.

13. If the current decision-making procedure is retained, the approval of a decision in an enlarged Security Council would require 15 votes in favour, provided that none of the permanent members voted against the decision. With 13 votes, the developing countries would have an effective group veto, without leaving the veto an the prerogative of any one State.

14. The end of ideological rivalry between East and West and the establishment of relations of partnership among the permanent members of the Security Council makes the veto historically obsolete. Recognizing that only the permanent members of the Council themselves can abolish the veto, Ukraine believes that the international community has an opportunity to limit the permanent members' use of the veto, especially by increasing the number of non-permanent members in the Council. Thus, it may be assumed that the speedy solution of the question of enlarging the Security Council will contribute to the voluntary limitation of the use of the veto by the permanent members.

15. Ukraine shares the view that the modernization of the Security Council is impossible if the only matters considered are its size and composition.

16. Ukraine is deeply convinced that the problems relating to decision-making in the Security Council, including its working methods and procedures, should not be held hostage to the main issue of enlarging the Council and depend on how that issue is resolved. The issues contained in cluster II should be considered independently of the outcome of the discussion on the enlargement of the Council.

17. On the whole, Ukraine supports the measures - the implementation of which should lead to the modernization of the Security Council - contained in the working paper submitted by the delegations of Argentina and New Zealand (A/AC.247/1996/CRP.8).

18. In addition, Ukraine believes that it is necessary to consider the advisability of preparing summary records for each informal meeting of the Security Council; informing States Members of the United Nations of the holding of emergency consultations; and publishing thematic monthly reviews containing the positions of each Council member on the diverse matters considered by the Council during the month.